

SENATE.

TUESDAY, February 7, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. McKENNEY, its enrolling clerk, requested the Senate to furnish the House of Representatives a duplicate engrossed copy of the bill of the Senate S. 285, "an act to divide the State of Oregon into two judicial districts."

The message also announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 185) authorizing and directing the Director of the Census to collect and publish additional statistics relating to cotton.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts and joint resolutions:

On January 31, 1905:

S. R. 94. Joint resolution to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1905; and

S. R. 97. Joint resolution providing for the payment of the expenses of the Senate in the impeachment trial of Charles Swayne.

On February 3, 1905:

S. R. 96. Joint resolution authorizing temporary use of certain vacant houses in square 686 in the city of Washington, and for other purposes.

On February 4, 1905:

S. 6584. An act to incorporate the trustees of the grand encampment of Knights Templar of the United States of America.

On February 6, 1905:

S. 355. An act granting a pension to Sarah Jane Simonds;
S. 3435. An act granting a pension to Mazilla Lester;
S. 5678. An act granting a pension to Margaret McKee Pentland, formerly Margaret McKee;

S. 5971. An act granting a pension to Cordelia Bird;
S. 6193. An act granting a pension to Jacob O. White;
S. 6321. An act granting a pension to Hattie F. Davis;
S. 69. An act granting an increase of pension to Frances C. Brown;

S. 104. An act granting an increase of pension to Abner Tayler;

S. 141. An act granting an increase of pension to James W. Kinkead;

S. 184. An act granting an increase of pension to John Bartlett;

S. 825. An act granting an increase of pension to Jesse Collins;

S. 826. An act granting an increase of pension to John C. Bertollette;

S. 830. An act granting an increase of pension to Thomas H. Muchmore.

S. 1420. An act granting an increase of pension to Gustavus S. Young;

S. 1794. An act granting an increase of pension to Joseph C. Walkinshaw;

S. 2074. An act granting an increase of pension to James A. Harper;

S. 2189. An act granting an increase of pension to Joseph K. Armstrong;

S. 2419. An act granting an increase of pension to Jane M. Black;

S. 2572. An act granting an increase of pension to Thomas J. Lucas;

S. 2707. An act granting an increase of pension to James M. Clemens;

S. 2913. An act granting an increase of pension to Elizabeth F. Given;

S. 2828. An act granting an increase of pension to Phoebe E. Lyda;

S. 3074. An act granting an increase of pension to Isaac Davisson;

S. 3517. An act granting an increase of pension to John B. Hammer;

S. 3635. An act granting an increase of pension to John M. Godown;

S. 3939. An act granting an increase of pension to James Miller;

S. 4075. An act granting an increase of pension to Charles M. Shepherd;

S. 4121. An act granting an increase of pension to James D. Beasley;

S. 4135. An act granting an increase of pension to Jane Francis;

S. 4159. An act granting an increase of pension to George W. Gray;

S. 4239. An act granting an increase of pension to William H. McCann;

S. 4392. An act granting an increase of pension to Samuel Hyatt;

S. 4660. An act granting an increase of pension to Nellie P. Newton;

S. 4691. An act granting an increase of pension to Leonard L. Lancaster;

S. 4722. An act granting an increase of pension to Martin V. Trough;

S. 4760. An act granting an increase of pension to Ezekiel Riggs;

S. 4823. An act granting an increase of pension to Mary Martin;

S. 4888. An act granting an increase of pension to Pierpont H. B. Moulton;

S. 4897. An act granting an increase of pension to Reuben Allred;

S. 5426. An act granting a pension to Henry O. Kent;

S. 5432. An act granting an increase of pension to Elias Stillwell;

S. 5451. An act granting an increase of pension to George W. Benedict;

S. 5455. An act granting an increase of pension to Jeanie G. Lyles;

S. 5509. An act granting an increase of pension to Susie C. G. Seabury;

S. 5523. An act granting an increase of pension to James Minnick;

S. 5527. An act granting an increase of pension to John A. Kingman;

S. 5540. An act granting an increase of pension to Jerome Bradley;

S. 5550. An act granting an increase of pension to Martin Mack;

S. 5568. An act granting an increase of pension to Flora B. Bonham;

S. 5670. An act granting an increase of pension to James W. Stickley;

S. 5698. An act granting an increase of pension to Martin Schubert;

S. 5712. An act granting an increase of pension to Sallie Dickinson;

S. 5727. An act granting an increase of pension to Jesse Woodruff;

S. 5757. An act granting an increase of pension to William A. Luther;

S. 5766. An act granting an increase of pension to Andrew S. Graham;

S. 5802. An act granting an increase of pension to Luther M. Bartlow;

S. 5808. An act granting an increase of pension to William Steele;

S. 5809. An act granting an increase of pension to Cyrus Wetherell;

S. 5812. An act granting an increase of pension to William T. Graham;

S. 5815. An act granting an increase of pension to James McKim;

S. 5841. An act granting an increase of pension to Nelson P. Smith;

S. 5842. An act granting an increase of pension to Thomas G. Parish;

S. 5856. An act granting an increase of pension to William V. Morrison;

S. 5868. An act granting an increase of pension to Mary C. Buck;

S. 5892. An act granting an increase of pension to James McAuliff;

S. 5938. An act granting an increase of pension to Owen A. Willey;

S. 5939. An act granting an increase of pension to George W. Hall;
 S. 5940. An act granting an increase of pension to Jason R. C. Hoyt;
 S. 5941. An act granting an increase of pension to Alma Yohum;
 S. 5943. An act granting an increase of pension to Jared Prindle;
 S. 5953. An act granting an increase of pension to Charles P. Thurston;
 S. 5958. An act granting an increase of pension to Mary J. Bartlett;
 S. 5961. An act granting an increase of pension to Warren P. Tenney;
 S. 5975. An act granting an increase of pension to Lucy Lytton;
 S. 6004. An act granting an increase of pension to James Hulme;
 S. 6074. An act granting an increase of pension to William Smith;
 S. 6085. An act granting an increase of pension to Leonard Delamater;
 S. 6091. An act granting an increase of pension to William Welch;
 S. 6092. An act granting an increase of pension to Elijah W. Gordon;
 S. 6094. An act granting an increase of pension to Ephraim W. Harrington;
 S. 6116. An act granting an increase of pension to Francis M. Sams;
 S. 6130. An act granting an increase of pension to Charles L. Harmon;
 S. 6191. An act granting an increase of pension to Charles R. Van Norman;
 S. 6192. An act granting an increase of pension to James McGinnis;
 S. 6194. An act granting an increase of pension to William S. Moorehouse;
 S. 6195. An act granting an increase of pension to Frederick Feigley;
 S. 6196. An act granting an increase of pension to William C. Dickinson;
 S. 6268. An act granting an increase of pension to Adria M. S. Moale; and
 S. R. 88. Joint resolution authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of Minnesota, at Minneapolis, Minn., to be placed on campus as a memorial to students of said university who served in Spanish war.

JUDICIAL DISTRICTS IN OREGON.

The PRESIDENT pro tempore laid before the Senate the request of the House of Representatives to furnish a duplicate engrossed copy of the bill (S. 285) to divide the State of Oregon into two judicial districts, and by unanimous consent the request was ordered to be complied with.

STATEHOOD BILL.

The PRESIDENT pro tempore. The Secretary will read the unanimous-consent agreement.

The Secretary read the agreement made January 30, 1905, as follows:

That general debate on the bill H. R. 14749, "An act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," shall close on Monday next, February 6; that on Tuesday next, February 7, immediately upon the approval of the Journal, the Senate will proceed to the consideration of the amendments offered or then to be offered, and that debate upon each amendment shall be limited to ten minutes for each Senator speaking thereon, and that before adjournment on Tuesday a vote shall be had upon the bill and all amendments. This order shall not interfere with the Senate sitting as a court of impeachment.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

The PRESIDENT pro tempore. The bill is in the Senate as in Committee of the Whole and open to amendment.

Mr. PERKINS. In connection with one of the pending amendments I desire to present a joint resolution of the legislature of California referring to it.

The PRESIDENT pro tempore. Is there objection to its reception?

Mr. GALLINGER. I ask that it be read.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

[Telegram.]

SACRAMENTO, CAL., February 6, 1905.

Senator GEORGE C. PERKINS,

Washington, D. C.:

Assembly joint resolution No. 6, relative to statehood of Arizona and New Mexico.

Whereas the question of joint admission to statehood of the Territories of Arizona and New Mexico is a question now pending before Congress; and

Whereas the peoples of these respective Territories should be allowed to express their desires upon such joint statehood in each Territory separately: Therefore,

Resolved by the assembly (the senate concurring), That we request our Senators and Representatives in Congress to use their influence to have such question submitted to the peoples of the respective Territories separately and in such manner that if a majority of the people of either Territory do object to such joint statehood that the same be not imposed upon them; and further

Resolved, That a copy of these resolutions be immediately forwarded by telegraph to each of our Senators and Representatives in Congress and one to the President of the United States.

I hereby certify that the above is a true copy of resolution adopted by the California legislature this day.

CLIO LLOYD,

Chief Clerk of the Assembly.

The PRESIDENT pro tempore. The bill is open to amendments as in Committee of the Whole.

Mr. BEVERIDGE. I suppose that the first thing in order is to consider the pending committee amendments that have been passed over. The first of these amendments is on page 5, beginning at line 8 and ending at line 15, inclusive.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 5, line 8, after the word "prohibited," the Committee on Territories propose to insert the following proviso:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

Mr. GALLINGER. Mr. President, I submit the following as a substitute for the committee amendment, on which I desire to be heard very briefly.

The PRESIDENT pro tempore. The Senator from New Hampshire submits an amendment to the amendment of the committee.

Mr. BEVERIDGE. Mr. President, I wish to say a word just at this juncture.

On Saturday notice was given by the Senator from Texas [Mr. BAILEY] that it might be that to-day he would request an extension and modification of the unanimous-consent agreement of the ten-minute rule to permit him to speak twenty minutes possibly, and it was suggested by other Senators and by the chairman of the Committee on Territories that that would be agreeable. That indicated agreement is to be adhered to so far as that Senator is concerned, and I have no doubt there will be no objection to some person who is for the bill occupying the same length of time; but I thought it fair at this juncture to say that, with this exception, the committee does not feel that it should consent to any other modification of the ten-minute rule.

The PRESIDENT pro tempore. The Secretary will read the amendment of the Senator from New Hampshire proposed to the amendment of the committee.

The SECRETARY. After the word "prohibited," in line 8, page 5, substitute a period for the colon and strike out all thereafter down to and including the word "provide" in line 15 and insert in lieu thereof the following:

The manufacture, sale, barter, or giving away of intoxicating liquors within this State is hereby prohibited for a period of twenty-one years after the date of the admission of this State into the Union, and thereafter until the people of this State shall otherwise provide by amendment of this constitution in the manner prescribed herein. Any person who shall manufacture, sell, barter, or give away any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, is hereby declared to be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by imprisonment for not less than thirty days nor more than one hundred days, and by a fine of not less than \$50 nor more than \$200 for each offense; and upon the admission of this State into the Union the provisions of this section shall be immediately enforceable in the courts of this State.

Mr. GALLINGER. Mr. President, I gave notice a few days ago of a proposed substitute for the committee amendment which involved in its provisions Federal jurisdiction over this question during the period of twenty-one years. The Senator from Missouri [Mr. STONE] offered an amendment to my amend-

ment which eliminates Federal jurisdiction, but makes it a misdemeanor, punishable by fine and imprisonment, as is stated in the amendment just read. I have incorporated the amendment proposed by the Senator from Missouri in my amendment, and that is the form in which it is now presented to the Senate.

Mr. President, there is a great deal of interest in this matter, not only the proposed new State, but throughout the land as well. I have on my desk this morning from Oklahoma, the proposed new State, various petitions which will indicate how deeply the people feel.

Here is a petition signed by Mrs. J. H. Tannehill and 2,269 other women of Oklahoma, memorializing the Senate that in providing statehood for Oklahoma we shall incorporate in the enabling act a clause excluding the manufacture and sale of all intoxicating liquors. I will not spread this petition out, for the reason that it is 105 feet long and would be a little burdensome.

I have here another petition signed by George H. McChaney and 2,852 other voters, making the same prayer for Oklahoma.

I have another petition from the following churches: Methodist Episcopal Church South, Asher, Okla., 53 members; Salem Missionary Baptist Church, Rocky, Okla., 190 members; Methodist Episcopal Church, Woodward, Okla., 70 members; Missionary Baptist Church, Rock Creek, Okla., 134 members; Congregational Church, Forest, Lincoln County, Okla., 41 members; Rock Island Avenue Methodist Episcopal Church, Elreno, Okla., 230 members, and so on, with a total membership of 3,186 persons, praying that we will not forget to give those people prohibition.

I have another petition from Oklahoma signed by Rev. W. M. P. Ripley and 413 other voters; another petition signed by Mrs. Annela Tigord and 716 other women; and a petition signed by Mr. Odie G. King and 629 young people and children in Oklahoma, praying for prohibition in the new State.

Now, Mr. President, I think if Senators will examine the amendment I have submitted many of the objections that were urged to the original amendment will disappear, inasmuch as Federal jurisdiction, which I think might properly be exercised and which I argued for the other day, has been eliminated, and the amendment simply provides that our treaty stipulations with these people shall be continued and that they shall not be subjected to the disastrous influences of strong drink.

To be entirely frank, Mr. President, so that the Senate may not be misled, the amendment that has been offered extends prohibition throughout the entire new State. I hope it may be adopted in that form, for the reason that it will be more easily enforceable, inasmuch as they have courts already in Oklahoma and not any courts in the Indian Territory.

Mr. CULLOM. It extends the time.

Mr. GALLINGER. It extends the time. I trust the proposed substitute may be adopted instead of the amendment submitted by the committee, which amendment, Mr. President, as I showed the other day, will be utterly inadequate, and will not result in the desire that I feel sure the committee itself has to protect these people from the disastrous influences of strong drink.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

Mr. MORGAN. Let the amendment be read.

Mr. BEVERIDGE. Let it be reported.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary again read the amendment to the amendment.

Mr. MORGAN. I move to amend the amendment by inserting, after the word "wine," the words "except of domestic growth and production."

The PRESIDENT pro tempore. That amendment would not now be in order. It would be an amendment in the second degree.

Mr. CULLOM. It is not in order just now.

The PRESIDENT pro tempore. It is not in order at this time. It would be in order if the pending amendment to the amendment should be adopted.

Mr. McLAURIN. Mr. President, I have no objection to the prohibition of the sale of intoxicants and strong drink in the State of Oklahoma, if such a State shall be admitted, but I do object to its being done by act of Congress. The Congress of the United States would not undertake to make a law regulating the police power or making police regulations for any other State. Such a law would be declared by the courts to be unconstitutional.

I do not believe that there should be a Union of States of unequal rights. It is a dangerous thing for the Government. It is contrary to the principles upon which the Government was

formed. Every State ought to have the rights of every other State when it is admitted into the Union.

I therefore oppose this amendment, not because I am opposed to prohibition, as I said, of the sale of intoxicating liquors or strong drink in the proposed State, but because I do not believe the Congress of the United States ought to pass an act that is to have any force in the newly created State, that could not, under the Constitution, have force and effect in any other State in the Union, if it were attempted to be enacted by the Congress of the United States.

Mr. STONE. Mr. President, I supposed that what the Senator from New Hampshire [Mr. GALLINGER] said in support of the amendment he offers was all that need be said on that subject. I arise not so much to supplement what that Senator said as to answer what the Senator from Mississippi [Mr. McLAURIN] has said, and not so much to answer him as to correct what I think is a misapprehension on his part.

I believe as strongly as the Senator from Mississippi or any other Senator in upholding all the reserved rights of the States. I am as much opposed as any man to invading what all of us understand to be the rights and privileges of the States. But I do not think this amendment open to that criticism. I do not think it would encroach upon any right guaranteed to or reserved by the States. Undoubtedly Congress has the right to prescribe the conditions upon which a Territory shall be admitted as a State into the Union. Unusual conditions, or those which would tend to impair the rights of the State or to undermine our theory of government, ought not to be imposed. But nothing of that kind is involved in this amendment. The thing proposed by this amendment is neither improper nor unusual. The same thing has been done already by different States.

Mr. McLAURIN. Will the Senator allow me to ask him a question?

Mr. STONE. Certainly; only my time is limited.

Mr. McLAURIN. If such an act as this should be applied to the State of Missouri and no other State in the Union, does the Senator think that that would be in accordance with the principles of the Government?

Mr. STONE. Mr. President, I do not think that Congress could now pass an act like this for the State of Missouri and enforce it. I do not think it would be within the constitutional power of Congress to enact a purely police regulation for enforcement within a State. But that is not the question here. It is not proposed to have Congress do that in this instance.

Mr. McLAURIN. Will the Senator allow me to ask him one other question?

Mr. STONE. Certainly; but I ask the Senator to be brief.

Mr. McLAURIN. Yes, sir; I will be brief. Does the Senator think the State of Missouri should have any right that any other State of the Union should not have? In other words, does the Senator from Missouri think that the State of Missouri should have any right that the State of Oklahoma should not have, if it were admitted into the Union as a State?

Mr. STONE. I do not think the State of Missouri should have a single right that the State of Oklahoma should not enjoy to the fullest extent. We are absolutely agreed upon that. Mr. President, the conditions here are peculiar and unusual. The emergency is great for some protective legislation of this kind. What is the proposition before us?

It is that the people of the two Territories shall incorporate in their constitution a provision that the manufacture and sale of intoxicants shall be prohibited, and this is made a condition precedent for the admission of the State. Congress clearly has a right to impose that condition. The thing to be prohibited should be prohibited, as all agree. We have prohibited polygamy and slavery in new States, and why not whisky? Ordinarily I am opposed to sumptuary laws of this kind, but under the circumstances facing us in this instance I believe this amendment should carry.

The people are to vote upon the proposition to put this clause in their constitution. After the admission of the State the people can change the constitution if they wish. Nothing would stand in the way of changing the constitution in this particular, or in any particular, except the question of good faith.

This is not an attempt by Congressional act to impose a police regulation upon the people of the State. We simply require the insertion of this clause in the constitution as a condition precedent for the admission of the State; and after the State is admitted, having started them upon this line, we then leave the continuation of the policy so established to the people of the State. They can continue the prohibition or end it, as they please. We simply start the State on this road.

Mr. President, some legislation of this kind is imperative

because of the peculiar conditions prevailing in those Territories.

Mr. MORGAN. Mr. President, the proviso for which the Senator from New Hampshire proposes a substitute reads as follows:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State, be prohibited for a period of ten years from the date of admission of said State, and hereafter until after the legislature of said State shall otherwise provide.

If that was extended to the entire State of Oklahoma I would not object to it, but it is applied only to the Indian Territory part of it.

The Senator from New Hampshire has offered a substitute which applies to the entire State. That part of it I approve. I would vote for it but for one expression in it, and that is the expression which seems to be intended to prevent the production of grapes and the manufacture of wine by the people in any part of that State, a very important industry, which we are choking to death, for which the people of this country will have great use after a while, if they have not got it now, to make light wines as a substitute for whisky.

The Senator from Mississippi objects that this is producing an unequal condition between the States of the Union. There is a very distinct affirmation in the bill that these States, when admitted, shall be admitted on terms of perfect equality with the other States in the Union. We all know that the substance of the bill, its provisions in various particulars, was against that declaration, and that if the substance of the bill is voted it is impossible that this State shall be admitted on terms of equality with the other States of the Union. As the vote proceeds these points will come out one after the other, until it will be perfectly obvious and manifest before the whole world that the Senate is admitting by a declaration that these States shall be admitted into the Union on terms of equality with the other States simply to cover up the inequalities we vote into the body of the bill.

Now, there is another provision here that the Senator from Mississippi seems not to have noticed. It is a proviso to the first section:

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished).—

I do not suppose they would have much effect after they were extinguished, but it seems to have been thought necessary to kill them even after they were dead—

or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

If that provision remains in the bill, of course Congress will have forever just the same power over these Indians that it has to-day, to segregate one-half of the State of Oklahoma and keep them under the legislative power of Congress as to the things that now concern the Indians in that Territory.

Mr. President, that reservation of authority over one-half, say, of the population of Oklahoma is not such a thing as can be found in any other constitution of any State or organization, even of a Territory, in the United States. It is an inequality that boldly juts out, and it is utterly inconsistent and absolutely irreconcilable with the idea that these people coming into the Union with these clogs upon them are the equals of the people of the United States, or that they are enjoying the rights of Statehood which we undertake to guarantee to all the balance of the people in that State except these.

I do not understand how it is possible to admit a State into the American Union one-half of whose people shall remain subject to the jurisdiction of the Congress of the United States exactly on the same terms that the Indians of this country are subject to the jurisdiction of Congress at this moment of time.

I do not care to debate the proposition, Mr. President. I have not time to do it. I merely think that the statement of it is enough to arouse the attention of the Senate to an absurdity that we are putting into the bill, that of retaining over all these Indians all the rights of the Government of the United States to control them as at this time for an indefinite period, and thereby subjecting them to inequality and to the loss of their constitutional rights.

Mr. McLAURIN. Mr. President—

Mr. BEVERIDGE. Under the unanimous-consent agreement the Senator has addressed the Senate once. I am sorry to interrupt him.

Mr. McLAURIN. I only—

The PRESIDENT pro tempore. The Senator can not be recognized more than once on any given amendment.

Mr. McLAURIN. I merely wish to make an answer to what was stated by the Senator from Missouri—

Mr. BEVERIDGE. I wish to say for the benefit of the Senator that there is no discourtesy whatever in this proceeding. We are under the ten-minute rule, which was made by the unanimous-consent agreement. I have said that I would consent that it may be suspended in one case only, which was asked for last Saturday, in case that Senator desires it, and, of course, the same time to be allowed to this side, but otherwise the committee could not consent to a further extension of the unanimous-consent agreement. That is what I wanted to explain to the Senator.

Mr. CLAY. I should like to ask the Senator from Indiana a question, with his permission, as to the construction placed on this amendment by the Committee on Territories. The construction placed on the amendment by the committee ought not to be misunderstood. Lines 7 and 8 provide that—

The sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

The proviso says:

That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

Now, I want to see if I understand the committee. Do I understand this language to mean that so far as the barter, sale, or giving away of intoxicating liquors to Indians is concerned it is forever prohibited, and that then the question of the sale or barter of intoxicating liquors to other persons than Indians, after a period of ten years, is left to the legislature of that State; that the legislature can not provide at any time for the sale or giving away of liquors to Indians, but it may provide for the giving away or the sale of liquors to other persons than Indians? I desire to ask the Senator if that is the construction the committee places on that language?

Mr. BEVERIDGE. Mr. President, in answer to the Senator from Georgia, and not in my own time at all, I will state that the Senator has substantially stated what I think the language plainly means, and certainly what the committee understands, to wit, that for a period of ten years the sale, barter, or giving away of intoxicating liquors is prohibited as to everybody, and that thereafter it is within the option of the legislature to say whether it shall be given, sold, or bartered away to anybody but Indians, but that as to Indians it is prohibited forever.

Mr. CLAY. Then I will ask the Senator from New Hampshire a question in regard to his amendment. I understand the amendment of the senior Senator from New Hampshire to change the period from ten years to twenty-one years. Do I understand that his amendment simply strikes out the proviso beginning in line 8 and ending in line 15, and leaves then the same provision in the bill in regard to the prohibition of the sale of liquors to Indians hereafter?

Mr. GALLINGER. Oh, yes; that is absolutely prohibited by Federal law.

Mr. CLAY. Then if the amendment of the Senator from New Hampshire should be adopted it simply strikes out the proviso and does not interfere with the text of the bill?

Mr. GALLINGER. It does not affect the remainder of the text.

Mr. CARMACK. Mr. President, I did not vote for the amendment offered by the Senator from New Hampshire the other day, because I did not believe that the Federal Government could rightly extend the exercise of police power within the boundaries of a State, while I was entirely in sympathy with the object sought to be accomplished by the Senator from New Hampshire, and am willing to go as far as possible to accomplish that end.

We have incurred certain treaty obligations with those Indians with respect to the sale of liquor, and it is the duty of the Government to discharge those obligations. Whenever the Indians become citizens of the United States and of a State, of course all treaties with them are at an end. There can be no such thing as a subsisting treaty between the United States and its own citizens. But so long as that Territory is kept in the condition of a Territory the United States by the exercise of its own police powers may discharge the obligations of the treaties. It can not, of course, surrender its power to another government and then claim the right by reason of the obligation of the treaty. It must keep itself in a condition to perform the obligation of that treaty. To do that, Congress has a perfect right to say to the people of that Territory, "We must prevent the sale of whisky within the Territory, and in order to do that we must keep you in a Territorial condition, or if

you wish statehood in the Union you must give us assurance that you will discharge those obligations."

For that reason I am willing to vote for a provision which will require the people of that Territory upon their admission to statehood to put in their constitution a prohibition of the sale of whisky to the Indians.

Mr. TELLER. Mr. President, I am in thorough sympathy with the purpose of this amendment, if I understand it. I do not for a moment doubt our authority to say to the people of that section of the country that if they want to be admitted they must bring us a constitution prohibiting the manufacture and sale of intoxicating drinks.

With that, Mr. President, my trouble begins. As I said, I have no question about our authority to exact that, and if they do not present such a constitution as we think they ought to, we reject it. But when we have accepted that constitution with that provision in it, and it becomes a State, the question presented is, Can we compel by any method whatever, moral or forcible, the continuance in the constitution of that provision?

Mr. President, I have no difficulty in voting for this proposition, but I have great doubt that this provision inserted in the constitution will do what the mover of it and what many others hope and expect it will do. But I shall vote for it without committing myself to the question of the power of the State of Oklahoma after it is admitted to change it, if it sees fit. That I will leave to the moral sense of the people who insert it in their constitution.

Mr. BAILEY. Mr. President, I shall not vote for this or any other similar provision, because it is a perfectly plain attempt to substitute the will of Congress for the will of the people in this proposed new State with respect to a purely police regulation. There is not a Senator in this Chamber who will venture to declare that Congress could pass any law regulating or controlling the sale of whisky in any State of this Union, yet we take advantage of the peculiar situation of this new State to tell it that unless it does, not its will, but our will, upon a purely domestic matter, we deny it admission to the sisterhood.

I take it that I am one of the few Senators in this body who have publicly and actively supported a constitutional amendment to prohibit the sale of intoxicating liquors in the States from which we come. I not only supported that amendment once, but I would support it as often as it might be proposed, because I am clearly of the opinion that the sale of intoxicating liquors falls within Jefferson's third class of his famous definition of pursuit, and I am persuaded that no man possesses the natural right to pursue an occupation that produces all harm and no good. Such a pursuit ought to be prohibited. If I were a member of the constitutional convention which is to frame the organic law of this new Commonwealth, I would zealously support a provision like this; but I will not vote that Congress shall do by the indirect method of a condition what every Senator confesses it could not directly do. If this kind of legislation is to be continued, then Congress, by imposing conditions on appropriations, by imposing conditions upon other public enactments, can usurp to itself almost the entire police power of the State.

Mr. President, I do not shield myself behind the proposition that I would seek to protect the Indian from the evil consequences of the liquor trade. I would infinitely rather protect the 700,000 white men there than the 20,000 blanket Indians. There is much of maudlin sentimentality about the Indians in the Indian Territory. I regret that it is true; but I know it to be as true as fate that the Indian's doom in that land has been sealed, and sealed by Congress.

When you destroyed his tribal relations, when you repealed the laws that held the white man from his country, you signed the Indian's death warrant. You knew, and I know, that the Indian can no more stand against the advancing tide of civilization than could the snow piled upon our streets remain unmelted in the summer's sun. I do not pretend ability to fathom the inscrutable decrees of fate; I do not pretend to know why it is true, but I know that in legislating for the Indian in that country you are legislating for a day only, yet you are enacting law that may bind and fetter the will of the white American citizens there through all the years to come.

Mr. President, I shall take great pleasure in voting against this amendment.

Mr. CARMACK. Mr. President, I ask that the amendment may be again read.

The PRESIDENT pro tempore. The amendment will be read. The Secretary read the amendment of Mr. GALLINGER, as modified, to the amendment of the committee on page 5.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER] to the amendment of the committee.

Mr. BATE. Mr. President, only a word. I understand that this amendment is a modification of the amendment of the committee as found in the printed bill. As I understand, the only difference is that the amendment of the Senator from New Hampshire increases the period from ten to twenty-one years, but it does not affect the principle at all, for the same principle is involved in ten years now in the bill as in the twenty-one years.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from New Hampshire [Mr. GALLINGER] to the amendment of the committee.

Mr. GALLINGER. Let us have the yeas and nays on that, Mr. President.

The yeas and nays were ordered.

Mr. DANIEL. I ask that the amendment may be again read.

The PRESIDENT pro tempore. The amendment will be again read.

The Secretary again read the amendment to the amendment.

Mr. BACON. Mr. President, that is an exceedingly important amendment, which I think has not been printed.

Mr. CULBERSON. Yes; it has been printed.

Mr. BACON. I beg pardon; I was mistaken. The copy from which the Secretary read was a typewritten copy, and I supposed from that that it had not been printed.

Mr. STONE. A portion of it has not been printed.

Mr. BACON. It has not been printed?

Mr. GALLINGER. I will say to the Senator from Georgia, if I may be permitted, that it is my original amendment, which has been printed, changed in a few words, the amendment submitted by the Senator from Missouri [Mr. STONE] being substituted for a part of my original amendment. It has all been printed, as a matter of fact.

Mr. BACON. As it is impossible to catch the full import of the amendment upon merely hearing it read, I desire to ask if this is intended to be a section of the constitution of the new State which is required as a condition precedent to admission that they shall have in their constitution? Is that it?

Mr. GALLINGER. That is the fact.

Mr. BACON. The language that is used, as well as I could catch it, might be construed by the casual hearer, if not the reader, as a requirement by United States statute.

I simply wish to say for myself, Mr. President, as has been said by a number of other Senators, that I am in thorough sympathy with the desire to do whatever may be required to protect the Indians from the liquor traffic, which I recognize as a great curse to them whenever they are subjected to it, even more so to them than to the white people. At the same time it is impossible for me to vote for the amendment, as drastic as it appears to be, when I have not even had an opportunity to read it. It seems to have the same end in view as the committee amendment. Therefore I shall content myself with supporting the amendment proposed by the committee and shall vote against this amendment.

Mr. FORAKER. I understood the Senator from Georgia [Mr. BACON] to inquire of the Senator from New Hampshire [Mr. GALLINGER] whether this amendment, if it be adopted, is to be a part of the constitution of the new State. I do not so understand it. The bill provides for a constitution and also provides for an irrevocable ordinance. The constitution is one thing, to be voted on by the people, and the ordinance is another thing, to be adopted simply by the convention.

Mr. BACON. I understand, then, that it will not be a part of the constitution, but will be an ordinance, to be ordained by the same authority that is to make the constitution.

Mr. FORAKER. I understood the amendment when it was read to be that kind of a proposition; and I intend to vote against it, Mr. President, because I agree with the contention that has been made, that it is not competent for Congress to undertake to legislate in this way about a purely police regulation or a domestic matter. It is on the legal aspects of the case entirely that my vote shall be cast. I quite agree with other Senators that it is for the people to protect themselves by that kind of legislation, and that it is something we must intrust to them.

The proposition of this bill is to admit this new State on an equal footing with the original States; and it is not competent for us to do that and at the same time restrict them by undertaking to legislate in advance for them about domestic matters.

Mr. HEYBURN. Mr. President, I am in sympathy with the sentiment represented by this amendment, but I am compelled to vote against it, because I do not believe we have power or can exercise power over State courts in the enforcement of laws or ordinances provided for by Congress. When a Territory becomes a State the courts are under the absolute control of the State. It has been held—and it is the law—that it is not

competent for Congress to confer jurisdiction to the extent of compelling State courts to act. Congress may give permission to them to act, but it can not compel them to exercise such jurisdiction. That being the law, then, I can not see my way clear at this time to vote for an amendment providing that the State courts shall enforce this provision relating to a purely domestic matter. We may legislate that United States courts shall have jurisdiction, but we can not provide that the State courts shall exercise jurisdiction. It is purely upon that single objection that I shall be compelled to oppose this amendment, the object of which I am thoroughly in sympathy with.

Mr. MALLORY. Mr. President, in my humble judgment we have no more right to impose the restrictions sought to be imposed on the people of Oklahoma by the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER] than we have to impose those in the one offered by the committee. I think both of them are beyond our moral right. At the same time, Mr. President, I have sympathy with the purpose sought to be accomplished, and I believe that the amendment proposed by the Senator from New Hampshire is in that respect an improvement on that proposed by the committee, and I shall vote for the adoption of the amendment proposed by the Senator from New Hampshire. But, Mr. President, if that amendment should be adopted, I should vote against its becoming a part of the bill, and, in any event, I should vote against either amendment becoming a part of the proposed measure.

Mr. BATE. Mr. President, one of the objections that I have to the bill, for I have many, although I have favored it in some respects, is that this bill unites the Indian Territory with Oklahoma. If the bill provided for the admission of Oklahoma alone, my vote would be in favor of it and against this amendment, but here is the Indian Territory which, under this bill as it now stands, is proposed to be united to Oklahoma. I want to do everything possible to protect the Indians in this regard, and to that end I would keep them in Territorial form under the control of the United States Government as a Territory. But I object to the union of the two Territories, and think different government is required for Indian Territory to that required for Oklahoma, and on this theory I vote.

Mr. LODGE. Mr. President, I rise to a question of order. I am afraid I misunderstood the rule. Are we not proceeding under the ten-minute rule, and is it not the understanding that each Senator is to speak only once on an amendment?

The PRESIDENT pro tempore. That is correct.

Mr. BEVERIDGE. The Senator from Tennessee [Mr. BATE] has spoken twice.

Mr. SPOONER. Mr. President, a single word upon this amendment. The argument against the amendment seems to me very much like an argument against the bill. On general principles, a people unfitted to come into the Union on an equality, so far as sovereignty is concerned, with the other States, is obviously unfitted to come into the Union at all. There is no doubt of the fitness of Oklahoma to come into the Union as a State; there is no doubt about the fitness of the great mass of the people of the Indian Territory to come into the Union as a State with Oklahoma; but the situation is a peculiar one. It seems to be one calling for a condition somewhat unique, and which would not have been thought of hitherto as to any State.

The power of Congress to impose conditions has been many times, in one way or another, exercised. The Constitution of the United States recognized slavery, but, in some instances, States were admitted upon condition that the constitution which they adopted should contain a provision against slavery, or involuntary servitude. This whole trouble—not all of it, but part of it—is, as has been stated by the Senator from Texas [Mr. BAILEY], due, I think, to the absolutely improvident policy of Congress in dealing with the Indians. So long as the tribal relations were preserved, so long as the Indian remained a ward of the Government, it needed no reservation in a constitution nor in an organic act to authorize the Government of the United States to deal with the subject of the barter and sale of intoxicating liquors to Indians within a State; but when Congress adopted the policy of making every Indian, the moment he received an allotment of land in severalty, a citizen of the United States and a citizen of the State, the situation changed, and the necessities of it, so far as this legislation is concerned, changed.

There are, I am told by my friend from Indiana [Mr. BEVERIDGE], 80,000 Indians in the Indian Territory. No man needs to be told that in the interest of the Indians and in the interest of the white people among whom the Indian is found, so far as it is possible, intoxicating drink must be kept from his lips. There is an Indian reservation, I think, in Oklahoma.

Mr. BEVERIDGE. There are two.

Mr. SPOONER. There are two reservations, the Senator says. As soon as allotments are made to those Indians, if any are to be made, their tribal relation probably ceases and they become citizens of the United States.

The proviso which I find on page 5 is as follows:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, etc.

The line between the two parts of the new State will be an imaginary line. It is an impossibility to protect the Indians in part of a State not a reservation any longer and not under the control of the Government of the United States any longer from this dangerous and inevitable indulgence. To make the sale of liquor free in one part of the State and prohibit it in another part of the State is a vain attempt to secure the object which alone can justify either of these propositions.

So I can see but one way to protect the Indians and to protect the white people in the State of Oklahoma from the free use by Indians of intoxicating drink and the violence and outrages which often follow, and that is for a time to prohibit its manufacture, barter, and sale among the whole people of that Commonwealth. If it were forever prohibited, I would not vote for it. It is with difficulty that one can tolerate the notion that one State in this Union shall be for any period inferior in State sovereignty—I mean in the exercise of the powers confessedly within the sovereignty of a State—to all the other States in the Union; but at the expiration of this period this amendment leaves it free to the people of Oklahoma to change their constitution and to remove this restriction. Under the circumstances, yielding only to a situation which seems to demand it if these people are to be admitted into the Union at all, I shall vote for the amendment.

Mr. CARMACK. Mr. President, I will ask the Senator from Indiana—

The PRESIDENT pro tempore. Has not the Senator addressed the Senate once on this amendment?

Mr. CARMACK. I rise to make an inquiry.

Mr. BEVERIDGE. I am sorry that the committee feels constrained to adhere to the unanimous-consent agreement, except in the instance specified at the beginning of the session.

Mr. CARMACK. Very well.

The PRESIDENT pro tempore. The yeas and nays having been ordered, the Secretary will call the roll on the amendment of the Senator from New Hampshire [Mr. GALLINGER] to the amendment of the committee.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the Senator from South Carolina [Mr. TILLMAN], who, I understand, is detained to-day by illness; but I propose to transfer my pair with him to the Senator from Connecticut [Mr. HAWLEY], and vote. I vote "yea."

Mr. GORMAN. Mr. President, I am aware that there has grown up in this body a custom of transferring pairs, but, as a rule, that has been intended only to apply to questions where we are divided by party lines. In this particular case the Senator from South Carolina—

Mr. LODGE. Mr. President, I ask if debate is in order during the calling of the roll?

The PRESIDENT pro tempore. It is not.

Mr. GORMAN. As I understand it, it is a universal rule in the matter of pairs that a statement is in order.

Mr. LODGE. Pairs are a matter only recognized by Senators themselves. I make the point of order that no debate is in order at this stage.

The PRESIDENT pro tempore. The Chair sustains the point of order that debate is not in order.

Mr. GORMAN. I shall seek an opportunity later on to make the statement I was about to make.

Mr. PENROSE (when Mr. Knox's name was called). My colleague [Mr. Knox] is unavoidably absent on account of sickness, and will not be present upon any of the votes on this bill or the amendments thereto.

Mr. PETTUS (when his name was called). I have a general pair with the junior Senator from Massachusetts [Mr. CRANE], and therefore withhold my vote.

Mr. SCOTT (when his name was called). I have a general pair with the Senator from Florida [Mr. TALLAFERRO]. I desire to transfer my pair, and ask it to stand during this and subsequent roll calls to-day with the senior Senator from Rhode Island [Mr. ALDRICH].

The roll call was concluded.

Mr. WARREN. I ask if the senior Senator from Mississippi [Mr. MONEY] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. WARREN. Then I withhold my vote, as I am paired with that Senator.

Mr. KEAN. I suggest to the Senator from Wyoming that he transfer his pair.

Mr. ALLISON. My colleague [Mr. DOLLIVER] is temporarily detained from the Chamber on a pressing matter. If he were here, I am quite sure he would vote "yea."

Mr. GAMBLE (after having voted in the affirmative). I ask whether the junior Senator from Nevada [Mr. NEWLANDS] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. GAMBLE. I have a general pair with the junior Senator from Nevada. I have voted in the affirmative, but I will withdraw my vote.

The result was announced—yeas 55, nays 20, as follows:

YEAS—55.

Allee	Depew	Kittredge	Penrose
Allison	Dick	Latimer	Perkins
Bard	Dillingham	Lodge	Platt, Conn.
Bate	Dryden	Long	Platt, N. Y.
Berry	Dubois	McComas	Proctor
Beveridge	Fairbanks	McCreary	Quarles
Blackburn	Foster, Wash.	McCumber	Simmons
Burnham	Frye	McEnery	Smoot
Burrows	Fulton	Mallory	Spooner
Carmack	Gallinger	Martin	Stewart
Clapp	Gibson	Millard	Stone
Clarke, Ark.	Hale	Morgan	Taliaferro
Cockrell	Hansbrough	Overman	Teller
Cullom	Hopkins	Patterson	

NAYS—20.

Alger	Clark, Mont.	Dietrich	Kean
Ankeny	Clark, Wyo.	Foraker	Kearns
Bacon	Clay	Foster, La.	McLaurin
Bailey	Culberson	Gorman	Nelson
Ball	Daniel	Heyburn	Wetmore

NOT VOTING—15.

Aldrich	Elkins	Mitchell	Scott
Burton	Gamble	Money	Tillman
Crane	Hawley	Newlands	Warren
Dolliver	Knox	Pettus	

So the amendment of Mr. GALLINGER to the amendment of the committee was agreed to.

The PRESIDENT pro tempore. The question is on agreeing to the amendment as amended.

Mr. MORGAN. I move to insert after the word "wine" in the amendment as amended the following words:

except wine of domestic production and manufacture.

Mr. GALLINGER. Mr. President, I desire to say simply a word on the proposed amendment. I am fully satisfied that if the amendment is adopted it will absolutely destroy the prohibition that is involved in the amendment I submitted. If domestic wine is allowed to be sold to the Indians, they will get drunk on it just as much as they would on imported wine or any other intoxicating drink. I hope the amendment to the amendment will not be adopted.

Mr. GORMAN. Mr. President, it is due to the Senator from South Carolina [Mr. TILLMAN], who is absent because of sickness, that I should say for him that he has a general pair with the junior Senator from Vermont [Mr. DILLINGHAM], and that upon this matter, which is not one that divides the Senate upon party lines, he has expressed a desire that his pair should be with the Senator from Vermont alone and should not be transferred.

It is also proper to say that he is aware of the fact that in matters purely political, and possibly others, the right to transfer has been exercised by both Senators, but he hopes that on this occasion and on this question and all the amendments to the bill his pair will stand with the Senator from Vermont.

The Senator from Vermont has transferred the pair to the Senator from Connecticut [Mr. HAWLEY]. Of course the Senator from Vermont has a perfect right to act upon any arrangement he has made with the Senator from South Carolina. It is proper, however, for me to state to the Senate the desire of the Senator from South Carolina, which I have now done.

Mr. SCOTT. Mr. President, my object in rising a few moments ago when my name was called on the roll call was to state my position on this bill. Being out of order at that time, I now desire to say that I paired with the senior Senator from Rhode Island [Mr. ALDRICH], because it is a courtesy I would expect a brother Senator to extend to me were I unavoidably detained from the Senate. As I understand from his colleague and others that he is in favor of this bill as it came from the House, and as I am not in favor of the bill as it came from the House as a whole, I consent to this pair.

If I were permitted to vote I should vote for the admission of

Oklahoma and the Indian Territory as a State. I should vote against the admission of Arizona and New Mexico as a State. I make that statement in order to go on record as to my position, as I have no desire to dodge the issue or the responsibilities that every Senator must take upon himself in the passage of the pending bill. Being thus paired, I think it would not be proper for me to vote upon any of the amendments, not knowing how the Senator from Rhode Island would vote. But as it is stated to me that he is in favor of the bill as it came from the House, I shall not vote when my name is called.

Mr. BEVERIDGE. I will say if the Senator from West Virginia desires to do so—that being a matter within his option—it would be perfectly permissible for the Senator to vote upon any amendments as to which he and the Senator from Rhode Island agree.

The PRESIDING OFFICER (Mr. KEAN in the chair). The question is on agreeing to the amendment offered by the Senator from Alabama to the amendment.

Mr. MONEY. Do I understand that the result of the vote has been announced?

The PRESIDING OFFICER. The Chair is unable to hear the Senator from Mississippi.

Mr. MONEY. I wish to know if the result of the vote on the amendment of the Senator from New Hampshire has been announced.

The PRESIDING OFFICER. Announcement has been made of the result of the vote.

Mr. MONEY. I ask unanimous consent of the Senate to state my position, as I am not allowed to vote.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. MONEY. I wish to say that if I had been present I should have voted against the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama to the amendment.

Mr. MORGAN. Let the amendment be stated.

The SECRETARY. It is proposed, after the word "wine," to insert "except wine of domestic production and manufacture."

Mr. MORGAN. Mr. President, I have offered the amendment with a view of trying to protect a great and valuable industry which is now spreading itself all over the United States, producing a yield of millions and millions of dollars to our wealth annually. Why the people of Oklahoma should be prohibited from raising grapes and manufacturing them into wine, when the people in the adjoining States of Texas and California, or anywhere else in the United States, have that permission, I can not understand.

The Senator from New Hampshire [Mr. GALLINGER] seems to think it is necessary, in order to keep some Indians from getting drunk, to exclude from the State every beverage which has any possible chance to intoxicate a man, white or red. If I believed that an Indian, after he has passed through the measure of civilization we are about to pour upon him and experiences the exhilarating influences of the new life, would do like Noah did, raise grapes, make wine, and get drunk, I should not expect any cataclysm to come out in the progress of civilization because he did.

Mr. President, we are carrying prohibition to the extent that it does not prohibit at all. There must be in prohibition some moral force. There must be an opportunity also to gratify the human desire for refreshment in moderately toned alcoholic beverages, not strong whisky and brandy and the like, which destroy a man when he drinks them, but more moderate drinks, such as wine and beer.

The people of California raise great amounts of grapes and produce excellent wine; and I have not heard that the people of that State are more liable to intoxication than any other people. In fact, I have frequently passed through that State; I lived in it for a while; and I have never seen a more sober and orderly people than there are in California, and I have been particularly interested in the situation with respect to the effect upon the Indians. Having been a member of the Committee on Indian Affairs, I have traveled through that State among the Indian tribes, and I have never seen an intoxicated Indian in California, and yet wine abounds there.

There is really no danger of any Indian getting drunk on wine, or more than one or two, because wine is generally a more expensive drink than Indians can indulge in. The people are entitled to raise in Oklahoma all the wine they choose to raise or that the soil is capable of raising, and it will not influence the sobriety of the country even among the Indians.

I hope the Senate will not break down by a constitutional prohibition, as proposed in this bill, a great industry in Oklahoma, in order to prevent the possibility of some Indian getting drunk.

Mr. STEWART. Mr. President, this amendment would practically nullify the amendment of the Senator from New Hampshire. I have had some experience with this matter. In California there was a settlement of Italians. They raised grapes and made them into wine. They drank it, and they would not get sober sometimes for days, and the drinking of the raw wine actually killed some of them. It was made of the grapes raised on rich land, using the ordinary table grape, which contains enough fusel oil to be absolutely dangerous. And then, besides, it is very easy to mix it with a little whisky or a little alcohol, and that makes it a very intoxicating drink. I think if we are going to have temperance at all we had better not open this door.

Mr. McLAURIN. Mr. President, I oppose the amendment of the Senator from Alabama [Mr. MORGAN] for the same reason that I opposed the amendment of the Senator from New Hampshire.

I do not believe that Congress, either in admitting a State or in any other act, ought to have any power or authority in regulating the police affairs of a State. I believe when the State of Oklahoma is admitted, if it shall be, it should have as much right and authority and power within its territory as the State of Indiana or the State of Missouri.

It has been said that it is a matter of good faith on the part of the citizens of that State, after they are admitted into the Union, as to whether they will keep the conditions upon which they enter into the Union; that is, that a condition is imposed upon the State of Oklahoma which makes it inferior in its authority to the State of Missouri or the State of Indiana.

The PRESIDING OFFICER. The Senator from Mississippi will please suspend. It is utterly impossible for the Reporter to hear. Conversation on the floor and in the galleries must cease.

Mr. PLATT of Connecticut. Mr. President, it is impossible for the Reporters to hear, I have no doubt, but it is equally impossible for Senators.

The PRESIDING OFFICER. The Chair is aware of that fact.

Mr. PLATT of Connecticut. And Senators who are trying to listen I do not think have been able to understand what has been said during the last five minutes.

The PRESIDING OFFICER. The Chair agrees with the Senator from Connecticut.

Mr. McLAURIN. It has been said that it is a question of good faith on the part of the people of the State of Oklahoma, when it shall become a State, whether they will keep the condition upon which they are admitted into the Union.

If that State should be admitted into the Union under a condition that they shall put in their constitution a provision prohibiting the sale of intoxicating liquors for twenty-one years, it is said that as soon as they become a State in the Union they can repeal that, if they see proper. They may amend their constitution, but so long as they do not amend the constitution, so long as they do not repeal the provision requiring them to keep the conditions upon which they are admitted into the Union, they are not equal in rights to the other States in the Union.

It is admitted by the Senator from Missouri [Mr. STONE] that an act like this would have no binding effect if it were applied to his State, but if there is a condition attached to the admission of Oklahoma that they must prohibit the sale of intoxicating liquors for twenty-one years, or any other number of years, for that matter, while they may avoid it by changing their constitution, if they did so they would do it at the sacrifice of good faith and, you may say, of their honor, because if they sacrifice good faith they sacrifice their honor. Now, then, they must do one of two things. They must be guilty of a breach of good faith or they must remain in the Union for twenty-one years at least unequal in rights to the State of Missouri or Indiana.

If they do the latter, we will have a Union of equal States with unequal rights, because this bill says that the State of Oklahoma and the State of Arizona are to be admitted upon an equal footing with the other States in the Union. I do not believe there ought to be any authority given to legislate for the Indians that is not given to legislate for the white people. I think that the Scotch, and the Welsh, and the German, and the Irish, and the Italian, and the French, and the Spanish, and the Slav, and all the Caucasian race ought to have as much rights in the Territory as the Indians. You give the Indians the right to vote and you thereby say they are capable of self-government—that they may participate in the government of the white people of that State; and yet they are not capable of governing themselves in their own appetites.

I do not believe any State ought to be admitted into the Union with any condition that would permit the Government of the United States, through its Congress, to project itself into the

police regulations of that State. I therefore oppose the amendment to the amendment for the same reason that I opposed the original amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. MORGAN] to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

Mr. CARMACK. I desire to offer an amendment if it is now in order. I do not know whether it is or not.

The PRESIDING OFFICER. Does the Senator propose to amend this amendment?

Mr. CARMACK. I do not know whether the amendment is in order at this time.

The PRESIDING OFFICER. Will the Senator from Tennessee please state his amendment?

Mr. CARMACK. The amendment I propose is in line 24, after the word "provide," on page 4—

The PRESIDING OFFICER. That amendment is not in order now. The question is on agreeing to the amendment as amended by the amendment of the Senator from New Hampshire [Mr. GALLINGER].

Mr. BEVERIDGE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONEY. Mr. President, I wish to supplement a little what was so clearly and well stated by my colleague a moment ago upon the conditions imposed by Congress to the admission of a Territory to the Union as a State.

I believe there is not a Senator in this Chamber to-day who does not believe that no condition will stand one moment after the State shall have been admitted. It is inconceivable that a Senator should believe that this is an association of unequal States and sovereigns. It has been decided again and again that these conditions amount to nothing whatever.

As for the question of good faith in the observance of a condition which the Congress may see fit to put in the act of statehood, I will say that I would have no respect for the people of Oklahoma and of the Indian Territory if they did abide, one single day longer than they could conveniently get rid of it, the condition imposed. The very fact that people would acquiesce for twenty-one years in having such a condition imposed upon them, creating an inequality in these States, would show they are unfit for statehood at all. If they comply with that, then I will never vote for them to be admitted at all.

But, Mr. President, I do not believe that the people are so incapable of, and so untrustworthy in, managing their own affairs as this condition insinuates. I believe the people of those two Territories are capable of performing all the acts of self-government which any State already admitted can perform. This is a discrimination against them. It is, in fact, a slur upon their capacity for self-government which, if it is true, should exclude them from the Union until they have attained the ability to administer their affairs upon a higher plane than that which they now occupy, according to the belief of a great many members, it seems, of the Senate.

No State should be admitted to the Union except upon terms of absolute equality with every other State, and if a State acquiesces in the imposition of such a condition it is because it is under duress in order to get into the Union, or else it is unworthy of a position as a sovereign in the galaxy of States.

Mr. BACON. Mr. President, as I stated heretofore, I have not the amendment before me, and I desire for information to know whether the amendment adopted was adopted as a substitute for the entire paragraph or only for the committee amendment?

The PRESIDING OFFICER. For the committee amendment.

Mr. BACON. I desire to say in regard to that matter that I recognize fully the obligation we are under to protect the Indians from the evil of the liquor traffic, if we can do it. For that reason if I had had the opportunity I should have voted for the provision as it was proposed to be amended by the committee, which limited the prohibition to the case of Indians personally, and went still further and prohibited the barter or the selling or the giving of liquor in that portion of the State occupied by the Indians either as their territory or as a reservation in any other part; and if I had the opportunity I should vote for the provision as it is found on the fifth page of the printed bill, which consists in part of the original bill and in part of the amendment of the committee. That provision is as follows:

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians, are forever prohibited: *Provided, That*

the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

I have now had the opportunity to read the Gallinger amendment and I can not support it.

When it comes, Mr. President, to the question whether Congress will prescribe as a condition precedent to the admission of a State into this Union that it shall for twenty-one years surrender absolutely and irrevocably its right to control its own affairs, in the liquor traffic or anything else, unless it be polygamy, I shall vote in the negative. If I had the opportunity, I repeat, I should vote for the provision as it is found in the printed bill. I can not vote for it as it has been amended by what is known as the "Gallinger amendment," which takes away from the people of the new State the right for twenty-one years to control their own internal affairs. Situated as Oklahoma is, or will be if admitted as a State, if I were a citizen of Oklahoma I would, with its large Indian population, vote for the prohibition of the liquor traffic. But I believe in the principle of local option in determining whether liquor shall or shall not be sold in a community. If the people of a community favor prohibition, it can be made effectual, but if forced on a community against the will of a community, prohibition will be a dead letter; hence the good policy of local option. I am willing to depart from this so far as to impose prohibition so far as the Indians are concerned, because we are under special obligations to protect them from the evils of the liquor traffic.

Mr. FORAKER. Mr. President, I am in entire sympathy with the amendment as reported by the committee, which is limited to the Indian Territory and to Indian reservations that may be found outside the Indian Territory in the Territory of Oklahoma as it is now. I think it our duty to make that kind of an enactment. I was hoping that our action would stop at that point. But inasmuch as the Senate has voted otherwise, to amend that amendment so as to provide prohibition throughout the whole State, and there is no other way than by its adoption to prohibit the manufacture, barter, sale, and giving away of intoxicating liquors to Indians—than by voting for the amendment, I propose to vote for it.

The PRESIDENT pro tempore. The Secretary will call the roll on agreeing to the amendment of the committee as amended.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). Again I announce my general pair with the Senator from South Carolina [Mr. TILLMAN] and the transfer of it to the Senator from Connecticut [Mr. HAWLEY]. I make that announcement for the day. I vote "yea."

Mr. PETTUS (when his name was called). I am paired on this bill with the junior Senator from Massachusetts [Mr. CRANE]. I make this announcement in reference to all the votes that may be taken hereafter on the bill.

The roll call having been concluded, the result was announced—yeas 52, nays 17, as follows:

YEAS—52.

Alger	Cockrell	Hansbrough	Penrose
Allee	Cullom	Heyburn	Perkins
Allison	Depew	Hopkins	Platt, Conn.
Ball	Dick	Kittredge	Platt, N. Y.
Bard	Dietrich	Latimer	Proctor
Berry	Dillingham	Lodge	Quarles
Beveridge	Dryden	Long	Simmons
Blackburn	Fairbanks	McComas	Smoot
Burnham	Foraker	McCreary	Spooner
Burrows	Frye	McCumber	Stewart
Clapp	Gallinger	Martin	Stone
Clark, Wyo.	Gamble	Overman	Teller
Clarke, Ark.	Hale	Patterson	Wetmore

NAYS—17.

Ankeny	Clay	McLaurin	Tallaferro
Bacon	Culberson	Mallory	Warren
Bailey	Daniel	Money	
Bate	Foster, La.	Morgan	
Carmack	McEnery	Nelson	

NOT VOTING—21.

Aldrich	Elkins	Kean	Pettus
Burton	Foster, Wash.	Kearns	Scott
Clark, Mont.	Fulton	Knox	Tillman
Crane	Gibson	Millard	
Dolliver	Gorman	Mitchell	
Dubois	Hawley	Newlands	

So the amendment of the committee as amended was agreed to.

The PRESIDENT pro tempore. There was an amendment offered by the Senator from Ohio [Mr. FORAKER] on page 28, which was passed over.

Mr. FORAKER. I now offer that amendment, if in order.

Mr. BEVERIDGE. Will the Senator permit me to perfect the bill?

Mr. FORAKER. I do not object. I proposed to offer the amendment now because the Chair called my attention to it.

Mr. BEVERIDGE. Very good.

Mr. FORAKER. I offer that amendment now, if it does not interfere with the Senator's plan in the management of the bill.

Mr. BEVERIDGE. No; all right.

Mr. FORAKER. I propose to insert on page 28, line 19, after the word "question," the words "in each of said Territories," to make the provision with respect to the adoption of the constitution, if it be framed, provide that it can not be adopted except by a majority of the legal votes cast on that question in each of said Territories. Inasmuch as I spoke at some considerable length in behalf of the amendment yesterday, I do not care to take any time in support of it now.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Ohio [Mr. FORAKER].

The amendment was agreed to.

Mr. LONG. I desire to offer some amendments which are satisfactory to the committee.

The PRESIDENT pro tempore. The first amendment sent to the desk by the Senator from Kansas will be read. [A pause.] The amendment as proposed by the Senator from Kansas must have been made to a former print of the bill. It does not agree with the print now before the Senate.

Mr. BEVERIDGE. I should like to have the Senator from Kansas withhold offering his amendments until the committee perfect the bill. There are some small amendments the committee has to offer.

The PRESIDENT pro tempore. Was there any consent given that committee amendments should first be acted upon?

Mr. BEVERIDGE. There was no consent given, but I ask the Senator from Kansas whether he will permit the committee to complete the bill?

Mr. LONG. That is satisfactory.

Mr. BEVERIDGE. I am going to accept the amendments which the Senator from Kansas shall offer.

On page 6, line 11, after the words "Provided, That," I move to strike out the words "this act shall not" and to insert in lieu thereof "nothing herein shall."

The PRESIDENT pro tempore. The Senator from Indiana in behalf of the committee offers an amendment, which will be stated.

The SECRETARY. On page 6, line 11, after the word "That," strike out the words "this act shall not" and insert "nothing herein shall;" so that if amended it will read:

Provided, That nothing herein shall preclude the teaching of other languages in said public schools.

The amendment was agreed to.

Mr. BEVERIDGE. On page 22, line 24, I move to strike out the letter "s" in the word "governors," so that it will read "governor," and the letters "ries" in the word "secretaries" and insert in lieu thereof the letter "y;" so as to read "secretary."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 22, line 24, strike out "governors" and insert "governor;" and in the same line strike out the word "secretaries" and insert the word "secretary."

The amendment was agreed to.

Mr. SPOONER. I submit to my friend from Indiana if that ought not to be done with the words "chief justices" also?

Mr. BEVERIDGE. No; because there are chief justices.

Mr. SPOONER. There are governors, too.

Mr. PATTERSON. There is only one.

Mr. BEVERIDGE. That is true. The Senator is correct. I move that amendment.

The SECRETARY. In the same line strike out the word "justices" and insert in lieu the word "justice;" so as to read "chief justice."

Mr. BEVERIDGE. That is right. I am much obliged to the Senator.

The amendment was agreed to.

Mr. BEVERIDGE. On page 27, line 7, after the words "Provided, That nothing," I move to strike out the words "in this act" and to insert in lieu thereof the word "herein."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 27, line 7, after the word "nothing," strike out the words "in this act" and insert the word "herein;" so as to read:

Provided, That nothing herein shall preclude the teaching of other languages in said public schools.

Mr. SPOONER. I ask the Senator from Indiana what difference that makes in the text?

Mr. BEVERIDGE. The difference is merely that this is part of an ordinance, and therefore the words "in this act" are inappropriate. The word "herein" is harmonious with the language employed.

The amendment was agreed to.

Mr. BEVERIDGE. Now the Senator from Kansas can present his amendments.

Mr. LONG. I offer the amendment which I send to the desk.

The SECRETARY. On page 12 strike out lines 23, 24, 25, and to the word "Provided," in line 3, on page 13, and insert—

Mr. LONG. I should like the attention of the Senator from Indiana to this amendment.

The PRESIDENT pro tempore. Those amendments would not be in order now. The Senator proposes to strike out by his amendment amendments that have already been agreed to as in Committee of the Whole. The Senator's amendment can only be offered in the Senate.

Mr. LONG. These amendments are satisfactory to the committee.

The PRESIDENT pro tempore. By unanimous consent it might be done.

Mr. GORMAN and others. No.

Mr. BEVERIDGE. I am perfectly willing to accept this amendment, and will do so if in order.

Mr. PATTERSON. There are objections over here. The senior Senator from Colorado [Mr. TELLER] objects.

Mr. BEVERIDGE. I do not know whether the Senator would insist on his objection. The amendments do not go to any policy of the bill.

Mr. TELLER. Let us go on in regular order.

Mr. BEVERIDGE. All right.

The PRESIDENT pro tempore. The amendment will be offered now. It will be stated.

The SECRETARY. On page 12, in lines 23, 24, and 25, and in lines 1, 2, and 3, on page 13, strike out the following words:

Use and benefit of the University of Oklahoma, the University Preparatory School, the normal schools, and the Agricultural and Mechanical College, and the Colored Agricultural Normal University of said State, the same to be disposed of as the legislature of said State may prescribe.

And in lieu thereof insert—

Mr. TELLER. Mr. President, is this amendment in order now?

The PRESIDENT pro tempore. The Chair is rather inclined to think it may be in order now, because it strikes out more than the amendments which were agreed to as in Committee of the Whole. It strikes out some six or eight lines in addition and inserts matter in its place. The Chair at first concluded that it could not be offered now, but on looking at the bill he is inclined to change his ruling.

Mr. TELLER. Let it be read again and let us see.

The SECRETARY. On page 12 of the bill strike out all of lines 23, 24, and 25, down to and including the word "prescribe," in lines 2 and 3, on page 13, and insert in lieu the following:

Use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established or hereafter to be established, one-third; and of the Agricultural and Mechanical College and the Colored Agricultural Normal University, one-third; the said lands or the proceeds thereof as above apportioned shall be divided between the institutions as the legislature of said State may prescribe.

Mr. TELLER. Mr. President, I do not care to debate this particular amendment. The Chair says it is in order; and though I have some doubt about that, I do not care to make any objection. I wish to take advantage of this amendment to say merely a few words on another proposition which is perfectly germane to this discussion.

Yesterday the chairman of the Committee on Territories read an article from a Colorado paper in which it is declared in substance that the water courses and irrigating conditions down there are such that it is necessary that Arizona and New Mexico shall be united. I challenged that statement then, and with the map before me, and with some personal acquaintance with that section of the country, I want to repeat practically what the junior Senator from Nevada [Mr. NEWLANDS] said yesterday.

The water system of New Mexico is as absolutely distinct from the water system of Arizona as it is possible to be. I have before me two maps, one on one page and the other on another. Any Senator who cares to look can see the situation. Taking the Territory of New Mexico, which lies immediately south of the State of Colorado, the Rio Grande River, which rises in the State of Colorado, runs into New Mexico about midway between the east and the west line. It runs entirely through the Territory and comes into Texas at El Paso. The Senator from Indiana yesterday took particular pains to show that the topography of this country requires that these two

Territories should be united, and he denied the fact that there was a range of mountains or hills, a series of high plateaus, immediately on the line between Mexico and Arizona.

Mr. President, I have taken the book of altitudes which the Government has published. I will not in ten minutes have time to give the details, but you may start in at the lower line of New Mexico, its southwest corner, and follow it to the northwest corner, where it joins Colorado, Utah, and Arizona, where the four corners come together, and you will find a series of mountains all the way up. The altitudes as given by the Government represent that all the way on that line there is a high piece of ground. There is only one single case I can find on the line where the waters of Arizona run into New Mexico, and then they run out in a few miles back into Arizona. In the northwestern part of the State the San Juan River runs from Colorado into New Mexico and goes out practically at the northwest corner of the State. That is the place where some years ago the Government established a corner for the four Territories. Now, I speak from absolute knowledge. I have stood at that corner. I know the San Juan River does run into the State of Utah and back into Arizona, but at a point where it goes into the Grand Canyon, and it never becomes, so far as that State is concerned, of any use in irrigation until it passes through the Grand Canyon.

In the southwestern part of New Mexico, near the western border, there is a small stream that heads there and becomes ultimately the Gila River, but no part of it is used by the people of that section of country for irrigation. It is too small at that point. It becomes a considerable river as it passes down and enters the grand Colorado River, not a great distance above the town of Yuma, in the extreme southwest part of Arizona, where the Atchison and Santa Fe Railroad crosses the line between New Mexico and Arizona, which is one of the passes. There the line is 7,245 feet above sea level. That is one of the low passes. Now, when you go down to the extreme southern point, where the Southern Pacific crosses the Arizona line, the elevation is about 7,000 feet at Lordsburg. A little distance from the western line of New Mexico, and all the way from the lower part of New Mexico clear up to the Colorado line, I repeat, is of high elevation. It is a narrow strip of country with the watershed running on to the Gulf of California and not to the Gulf of Mexico.

The Territory of New Mexico is on the whole much higher than the Territory of Arizona except on the great plateaus which have been spoken of here, which are about 8,000 feet above sea level. The capital of New Mexico, Santa Fe, is nearly 7,000 feet above sea level, while the capital of Arizona is 2,300 feet above sea level. The town of Phoenix, the largest town in the Territory of Arizona, is on the Salt River, about 1,000 feet above sea level in round numbers, and then the town of Yuma, which is, as I said, in the southwest, is 137 feet above sea level.

Now, taking the whole Territory of Arizona, it is very much lower than New Mexico. The town of Eddy, in New Mexico, which is in the southeast part, and in one of the best sections of that Territory, is three thousand and some odd feet above sea level. It may be said that the entire Territory of New Mexico is above that point.

Now, Mr. President, I want to repeat, with the map before me, with some personal knowledge of this country and the rivers from actual observation, that there is not the slightest possible pretense, or should not be, that the irrigation of one section of that country—that is, Arizona—could interfere with New Mexico. There can be no controversy, because the waters run in a different way. New Mexico must take the water principally from the big river that runs down through her center, starting in the center and going out at the western side about one-third the distance from the Arizona line.

Mr. President, I wanted to say this much because I thought the Senator from Indiana, who has the bill in charge, was misled by the newspaper article. I regret to notice by his speech on this matter and his whole description of the physical condition that if he went down through that country he saw very little of it, or he did not observe, as I think he usually does when he goes through a country. There is that natural divide, Mr. President, between Arizona and New Mexico. It is about 400 miles long. Of course you can not locate a divide on a mountain range exactly so as to take all the water from one side and the other. There will be little bends in the mountains in which the water will rise and run, perhaps, a part of it one way and a part of it the other; but with rare exceptions, and that only in one single case, can you find where any water rises in Arizona and runs into New Mexico. The water running into Arizona from New Mexico originates within 20 or 25 miles of the western line.

All the argument the Senator made yesterday, that nature had

intended these two Territories to be put together, is contradicted by the physical facts that are to be seen in any well-regulated map and ought to be known by every citizen who speaks on the subject; and they are especially known to us western people who have been acquainted with and have felt an interest in these Territories for the last forty years.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. NEWLANDS. Mr. President, I wish to supplement what the Senator from Colorado has said regarding this natural division between Arizona and New Mexico by stating that whilst the region which constitutes this natural barrier is not impassable, whilst it does not consist of abrupt and impassable mountains, yet it is a region that is almost incapable of development because of its altitude and because of the scarcity of the water supply. That region is called the "Great Divide," and is, as the Senator from Indiana says, a plateau broken here and there by high mountains, but it is also a region almost devoid of moisture for the reason that, whilst a few of the streams which flow from this divide toward the east and toward the west take their source in these regions, they are at their source very attenuated streams, incapable of supplying much water, and the volume of water increases lower down. So it is impossible to resort to irrigation in the region of the Great Divide, and, besides, the high altitude prevents that intense cultivation which prevails in lower altitudes, where the climate is more kindly and the warmth of the sun is greater.

I insist, therefore, upon the correctness of my statement made yesterday when I interrupted the Senator from Indiana, that there is a natural division approximating to the present boundary line between Arizona and New Mexico, consisting of this elevated plateau, almost incapable of cultivation, and thus separating by a considerable width the civilization of New Mexico from the civilization of Arizona.

Now, one word with reference to the size of the proposed joint State. The Senator from Indiana insists that the State of Texas is a large State. And yet the people of Texas would not assent to-day to the division of that State into four or five States, sanctioned by the act admitting Texas into the Union. He also insists that though California is a large State approximating the proposed joint State in area, the people of California would not engage in a movement for a division of that State into two States, and he claims that this fact proves that there is no objection to a very large State. I may add also that the State of Vermont has only about 300,000 people, a population only approximating that of New Mexico to-day, yet Vermont would not listen to a proposition of union with New Hampshire. The States of Vermont, New Hampshire, and Rhode Island, all of them combined, will never have a population equal to the future population of the proposed State of New Mexico, and yet none of them would favor a proposition regarding union with any of the New England States. Why so?

One would think that the argument used against the division of the large States would prevail in favor of the union of small States. And yet the large States object to division just as the small States object to consolidation. The reason is that all these States have for a long time exercised autonomy. Their institutions are established within recognized boundaries; their economic operations are fixed; the industries and the activities of each State have become correlated to each other; each State is an individual, and each State, whether large or small, is unwilling to sink or merge its individuality. So it is, though you may present the argument to the small States in favor of union and to the large States in favor of division, neither of them will accept your proposition. Pride in the traditions, the history, and the achievements of each State will prevent. Yet I insist upon it that the States of Texas and of California are to-day too large, and that the administration of government in each one of those States would be better if each of them were divided—Texas into the four or five States contemplated by the act admitting her into the Union, and California into two States by the dividing line at Tehachapi Pass.

So far as California is concerned, it has a stretch of ocean boundary equal to that of twelve or more States, I believe, upon the Atlantic coast. There is a natural division there at Tehachapi Pass, just as there is in the case of Arizona and New Mexico, though not so wide in area. In the State of California there was a feeling that the interests of the southern part of that State were not fairly considered in legislation. The capital was in the northern part of the State, comparatively inaccessible to the people from the southern part of the State. The northern part of the State was humid and the southern arid. The subject of a division of the State has been frequently discussed there, and to-day, as the result of those dissensions in the State over matters arising from its extensive area not permit-

ting of complete self-government that would benefit every section of that State, we have a practical division of the State into two parts, for it has now become the recognized political rule of that State that one Senator shall come from the part north of Tehachapi Pass and the other Senator from the part south of Tehachapi Pass.

So also with reference to Texas. I attended recently an irrigation congress at El Paso, Tex., in the remote western portion of that State, just south of New Mexico. That enterprising town had sent a delegation to the irrigation congress, which had been held in Utah, and there urged the entire West to fix upon El Paso as the meeting place of the next irrigation congress. The entire arid and semiarid region was glad to acquiesce in that arrangement, and the congress was held there—probably one of the most successful congresses that we have had in the history of the irrigation movement. We found that there was a feeling in El Paso, arising from the fact of the lack of recognition of this movement on the part of the eastern part of the State—the humid portion—that El Paso was neglected and alone, that her interests were so distinct from those of eastern Texas that it was difficult to obtain the proper recognition. And whilst feelings of State pride would prevent any effort at division to-day there can be no doubt but that better and more satisfactory local self-government would be secured had this vast area been divided into States of more convenient size.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. McCUMBER. Mr. President, when the Senator from Kansas [Mr. LONG] was making his address the other day, three times I put the question directly to him as to whether or not, in his opinion, the Territory of Oklahoma had sufficient population and its resources were such as to justify the assumption that it would make a great State, one capable of carrying on all of the duties of a State and one that would be a credit both to the State itself and to the nation. Three times the Senator from Kansas avoided directly answering that question as to whether or not, in his opinion, there was a sufficient population. I assume, therefore, Mr. President, that neither the Senator from Kansas nor a single Senator upon this floor to-day can assert that there is not the requisite population within the Territory of Oklahoma, and also within the Indian Territory, to make two great States that would be a credit to this country.

If a Territory has a population to-day of 700,000 inhabitants, and that Territory has such resources as to give assurance that it will maintain a population equal to the average population of the States of the Union, then I want some good, conscientious, sound reason from any Senator why that Territory should not be admitted into the Union as a single State. If it has that population, if it has those resources, I say the State itself is entitled to come into the Union, and the Union is entitled to have the benefit of that State and the representation which she will send to this Congress.

Why, I might ask, do the Senators from New England, with a single exception or two, stand almost solidly against the proposition of having any more States which they might consider as even small States in the Union?

I can understand, Mr. President, why a Senator from New York or a Senator from Pennsylvania might feel that his State did not have the requisite or proper representation in this Senate, but I can not understand how a Senator coming from Vermont, or Maine, or New Hampshire, or from any of those small States, where every legislator is as well acquainted with the boundaries of the several farms in his State as the average legislator from my State or from Texas will know of the boundaries of the counties in his State, should do so.

I admit that they are ideal States, that they are sufficiently small so that they can be conducted more economically than can other States in the Union, and I have never seen the time when the representatives of those States did not on every and on all occasions speak of the grandeur of their Commonwealths; and I admit that what they say is true. I admit that the State of New Hampshire and the State of Vermont are better conducted and more economically conducted than any other States in the Union to-day. They are in all respects ideal, and they who have lived there and who have had the blessings of those conditions now come before the United States Senate and say, "We will have no other small States in the Union." I can not understand why, when Oklahoma has a population of 700,000, Maine of 694,000, New Hampshire of 411,000, Rhode Island of 428,000, Vermont of 343,000, and Delaware of 184,000 inhabitants, they should object to taking in Oklahoma with about 700,000 inhabitants at the present time and with a prospect of having seven millions in less than a century, while the

century which has gone past has only raised the States of New England to which I have referred up to that condition.

These New England States, Mr. President, are not going back. The farm products of Vermont and New Hampshire may not be as great as they have been in the past, but their other products, taken as a whole, combined with their farm products, are greater to-day than they ever have been before in the history of those States. I simply can not see why the Senators from those States should object, therefore, to making a State that in population will be from ten to twenty times—yes, a hundred times—greater than theirs. I can not understand why the State of Delaware, with two Senators, should complain that Oklahoma, only fifty times as great in size as the State of Delaware, should be admitted to statehood and insist that she can not come in unless she is a hundred times as large as the State of Delaware. I can not understand how a State having a population of 343,000 inhabitants, growing naturally slowly, if it is increasing at all, can stand here, knowing the benefits and the importance of a State to the Union, and insist that a Territory that is in its infancy, having 700,000 population, is too small to be admitted into the Union of this great Republic.

Mr. President, there are ten Senators representing the five States I have mentioned. Why do those ten Senators object, and say that a Territory that has a greater population than any one of them contains at the present time shall have but one vote as against their ten in the Senate of the United States?

I believe in reasonably small States. I believe, Mr. President, that the results of legislation in every one of the States shows strongly in favor of the small States of this Union. That being the case, it seems to me that our patriotism should be in favor of producing those better conditions all over the United States, and not have those good conditions, so boasted of by our friends in the East, existing only down in their little section on the Atlantic coast.

Let us take the farm produce of any of these States, and we will find that it will not come up with Oklahoma. Let us take the number of cattle of any of those States, and they will not come up with the number in Oklahoma. Let us take the same things, and they will not measure up with the products of the Indian Territory. They have to-day in the East a greater number of manufactures, but the first industry in every new State and in every new Territory is agricultural, and after they have become more or less densely populated manufactures always follow. The manufacturing industries in Indiana have grown up in the last fifty years. The same may also be said of Ohio and Illinois. So, after fifty years more of settlement, first upon our farms, manufacturing establishments will be all over the Indian Territory, all over Oklahoma.

The PRESIDENT pro tempore. The Senator's time has expired. The question is on the amendment of the Senator from Kansas [Mr. LONG].

The amendment was agreed to.

The PRESIDENT pro tempore. The Senator from Kansas [Mr. LONG] has two or three other amendments which he desires to offer. They would be subject to the point of order and could not be offered, except by unanimous consent, other than in the Senate after the bill has gone to the Senate, but he asks unanimous consent that they may be considered now. With the exception of the first one, they are amendments, the Chair is informed, to which the committee agree. The Secretary will report the first amendment.

The SECRETARY. On page 14, section 10, line 14, after the word "prescribe," it is proposed to insert the following:

And until such time as the legislature shall prescribe the same, this and all other lands granted to the State shall be leased under existing rules and regulations.

So as to read:

SEC. 10. That said sections 13 and 33, aforesaid, if sold, may be appraised and sold at public sale, in 160-acre tracts, or less, under such rules and regulations as the legislature of said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, but the same may be leased for periods of not more than five years, under such rules and regulations as the legislature shall prescribe, and until such time as the legislature shall prescribe the same this and all other lands granted to the State shall be leased under existing rules and regulations, and shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for designated purposes only and until such time as the legislature shall prescribe the same shall be leased under existing rules.

The amendment was agreed to.

The PRESIDENT pro tempore. The second amendment of the Senator from Kansas [Mr. LONG] will be stated.

The SECRETARY. On page 16, section 12, line 11, it is proposed to amend the committee amendment by striking out "one" and inserting "two;" so as to read:

For the benefit of the Agricultural and Mechanical College, 250,000 acres.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Is there objection to the present consideration of the amendment?

Mr. BAILEY. Mr. President, I desire to join the Senator from North Dakota [Mr. McCUMBER] in his very praiseworthy attempt to secure for these Territories, soon to become States, and entitled to become States, a fair recognition of their people and their resources; but, in addition to my cordial agreement with all which he has spoken, I am impelled by another consideration to detain the Senate.

Within the last twelve months I have received many letters and telegrams from gentlemen formerly residing in the State of Texas, but who now reside in Oklahoma and the Indian Territory, pleading for the union of these two Territories into a single State. As I can not comply with their request, I feel that I owe it to them, as well as to myself, briefly to state the reasons which have influenced my judgment and which must, therefore, control my vote against the proposition which they have urged me to support.

If it could be contended with any show of reason that either Oklahoma or the Indian Territory were incapable of sustaining a population that could support an efficient State government without a serious burden of taxation I would yield to that argument; but, sir, no Senator who has addressed the Senate in this long debate has ventured to declare that either Territory is so deficient in acreage or so poor in resources that it could not easily maintain an efficient and excellent government for its people. There they are, sir, outlined on the map of your country, and you can join Vermont, New Hampshire, Rhode Island, and Connecticut together and then I can put all four of them down in either Oklahoma or the Indian Territory and still have room left for another State more than twice as large as the least of them.

How will the Senators from those States relish the suggestion that only a great State is fit for association with the others? Suppose some Senator should rise in his place on this floor and declare for the union of Vermont and New Hampshire. The Senators from those States would lift their voices in such indignant protest as this Chamber has not heard for many years; and yet, I regret to say, a Senator from one of those States is an active opponent of fair treatment for these Territories. It comes with bad grace for the Senator from Vermont [Mr. DILLINGHAM] to talk about uniting Territories against their will, because the country is familiar with the history which recites that Vermont herself seceded from the State of New York.

The Senator has not forgotten that when the lawfully constituted authorities of New York sought to enforce the judgment of her courts in what now constitutes Vermont they were resisted, bound to trees, and lashes laid on their bare backs. They called that "administering the beech-tree seal" to titles in Vermont. When by her resistance to the lawful authority on one occasion—

Mr. PROCTOR. Mr. President—

The PRESIDING OFFICER (Mr. CULBERSON in the chair). Does the Senator from Texas yield to the Senator from Vermont?

Mr. BAILEY. Yes.

Mr. PROCTOR. I wish to set the Senator right. It was called administering the "beech seal"—they left out the word "tree"—"with the twigs of the wilderness."

Mr. BAILEY. I am surprised that Vermont left out anything that could be taken in on that or any other occasion; but I am glad to have my statement confirmed, and probably the Senator will confirm another statement which I am about to make, that when they had assembled a legislature on one occasion, a messenger came in haste to inform them that the militia from the State of New York were coming to disperse them, and they hastily adjourned; but before adjourning they adopted a resolution declaring that the laws of God should be in force in that Commonwealth until they had time and opportunity to make better ones. [Laughter.] And yet Vermont, although she resisted the lawful authority of New York, because it was so far from the seat of power, now votes to join two Territories, each capable of making a State six times as great as Vermont herself.

Mr. PROCTOR. Mr. President, I am sorry the Senator from Texas makes this allusion in the absence of my colleague [Mr. DILLINGHAM], to whom he especially refers. In regard to Vermont's secession from New York, I desire to say she never belonged to New York. She was an independent State.

Mr. BAILEY. Certainly the Indian Territory does not now belong to Oklahoma.

Mr. PROCTOR. Mr. President, Vermont, like Texas, was a sovereign State. She adopted her constitution and maintained her independence against the world for fourteen years.

Mr. BAILEY. And against New York in particular. [Laughter.] I understand what the Senator from Vermont means by

his allusion to Texas, and I shall leave unsaid what I intended to say about these Territories to reply here and now to his reference to our State.

THE STATE OF TEXAS.

Mr. President, throughout this discussion we have heard many and varied comments upon the magnitude of Texas. Some Senators have expressed a friendly solicitude that we would some day avail ourselves of the privilege accorded to us by the resolution under which we were admitted to the Union and divide our State into five. Other Senators have seemed to think it a ground of just complaint that I have considered it my duty to oppose the consolidation of two Territories into one State without advocating a division of Texas. The same reasons which will satisfy our solicitous friends that their hope for a division of Texas can never be realized will also relieve me from the charge of inconsistency which has more than once been insinuated against me in the course of this debate.

If Texas had contained a population in 1845 sufficient to have justified her admission as five States, it is my opinion that she would have been so admitted then, because the all-absorbing slavery question—which, happily, no longer vexes us, but which completely dominated American politics at that time—would have led to that result. I will even go further than that, and I will say that if Texas were now five States, there would not be five men in either State who would seriously propose their consolidation into one. But, sir, Texas was not divided in the beginning; Texas is not divided now; and under the providence of God she will not be divided until the end of time. Her position is exceptional, and excites within the minds of all her citizens a just and natural pride. She is now the greatest of all the States in area, and certain to become the greatest of all in population, wealth, and influence. With such a primacy assured to her, she could not be expected to surrender it even to obtain an increased representation in this body.

But, Mr. President, while from her proud eminence to-day she looks upon a future as bright with promise as ever beckoned a people to follow where fate and fortune lead, it is not so much the promise of that future as it is the memory of a glorious past which appeals to her against division. She could partition her fertile valleys and her broad prairies; she could apportion her thriving towns and growing cities; she could distribute her splendid population and her wonderful resources, but she could not divide the fadeless glory of those days that are past and gone. To which of her daughters, sir, could she assign, without irreparable injustice to all the others, the priceless inheritance of Goliad, the Alamo, and San Jacinto? To which could she bequeath the name of Houston, and Austin, and Fannin, and Bowie, and Crockett? Sir, the fame of these men and their less illustrious but not less worthy comrades can not be severed; it is the common glory of all, and their names are written upon the tables of her grateful memory so that all time shall not efface them. The story of their mighty deeds which rescued Texas from the condition of a despised and oppressed Mexican province and made her a free and independent republic still rouses the blood of her men like the sound of a trumpet, and we would not forfeit the right to repeat it to our children for many additional seats in this august assembly.

The world has never witnessed a sublimer courage or a more unselfish patriotism than that which illuminates almost every page in the early history of Texas. Students may know more about other battlefields, but none was ever consecrated by the blood of braver men than those who fell at Goliad. Historians may not record it as one of their decisive battles, but the victory of the Texans at San Jacinto is destined to exert a better influence upon the happiness of the human race than all the conflicts which established or subverted the petty kingdoms of the ancient world. Poets have not yet immortalized it in their most enduring verse, but the Alamo is more resplendent with heroic sacrifice than was Thermopylae itself, because while Thermopylae had her messenger of defeat, the Alamo had none.

Mr. President, if I might be permitted to borrow the apostrophe to liberty and union pronounced by a distinguished Senator, I would say of Texas: She is one and inseparable, now and forever. [Applause in the galleries.]

The PRESIDENT pro tempore. Signs of approval or disapproval are not permitted in the United States Senate, and the occupants of the gallery will hereafter refrain.

The Senator from Kansas [Mr. LONG] asks unanimous consent to offer certain amendments at this time. They will be stated.

The SECRETARY. On page 16 of the bill, line 11, restore the original text of the bill; where "two" was stricken out and "one" inserted, strike out "one" and restore "two;" so that it will read:

For the benefit of the Agricultural and Mechanical College, 250,000 acres.

The amendment was agreed to.

The PRESIDENT pro tempore. The other amendments proposed by the Senator from Kansas will be stated.

The SECRETARY. On page 16, line 8, after the word "hundred," at the end of the line insert the words "and fifty;" so that it will read:

For the benefit of the Oklahoma University, 250,000 acres.

The amendment was agreed to.

The SECRETARY. On page 16, line 14, after the words "normal schools," insert the words "now established or hereafter to be established."

The amendment was agreed to.

The SECRETARY. On page 16, line 15, after the word "acres," at the end of the paragraph, it is proposed to insert:

The lands granted by this section shall be selected by the board for leasing school lands of the Territory of Oklahoma immediately upon the approval of this act. Said selections as soon as made shall be certified to the Secretary of the Interior, and the lands so selected shall be thereupon withdrawn from homestead entry.

The amendment was agreed to.

The SECRETARY. On page 17, line 8, after the word "Guthrie," strike out the word "and;" and after the words "Oklahoma City," in the same line, strike out the word "alternately" and insert the words "and one term at Enid."

The amendment was agreed to.

The SECRETARY. On page 17, line 23, after the words "Monday in," strike out the word "June" and insert the word "April;" and after the word "June" insert the words "at Enid on the first Monday in October."

The amendment was agreed to.

Mr. CARMACK. I offer the amendment I indicated a while ago. On page 4, line 24, after the word "provide," strike out everything down to and including the word "State," in line 2, page 25, and insert "in said constitution."

The PRESIDENT pro tempore. The Senator from Tennessee offers an amendment, which will be stated.

The SECRETARY. On page 4, line 24, after the word "provide," it is proposed to strike out the words "by ordinance irrevocable without the consent of the United States and the people of said State" and insert in lieu thereof the words "in said constitution."

Mr. CARMACK. I wish to say just a few words on the amendment. I was very desirous of having the amendment adopted before being required to take a final vote on the amendment of the Senator from New Hampshire [Mr. GALLINGER], or to have some assurance that the amendment would be accepted. I could not vote for the amendment proposed by him with this language in the bill. For that reason I tried then to secure a vote on the amendment, but was not in order. I offer it now.

Mr. DANIEL. Mr. President, it seems to me this amendment ought to be adopted. If it is not adopted the bill will contain a doctrine that has never obtained in the United States, and can never be given any validity by the Congress of the United States. I read it that it may be appreciated by the Senate:

And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State.

Then follow a number of provisions which it is declared shall be contained in the ordinance thus referred to, and these provisions ordained by the State to be are made forever irrevocable in that State or are attempted to be made so by this act of the Congress of the United States.

In point of fact and in legal contemplation this is mere brutum fulmen. This passing body, here to-day and gone to-morrow, can not put a lasso forever around the neck or the heels of the people of any State in the American Union. When General Grant was President a question arose concerning the State of Arkansas, and upon the proposition that the State could not change its government. It was abandoned, and Arkansas did change its government, and so will any State of the American Union change its government, under and subordinate to the Constitution of the United States, which is the paramount authority, regardless of what any passing Congress may choose to put upon our statute book. It merely brings contempt and disregard upon Congressional legislation when Congress reaches out and strives to do something which it is forbidden to do by the Constitution of the United States.

It has been a problem of mankind, Mr. President, from the beginning till to-day how to eat your cake and keep it, too. It has never been solved to the satisfaction of those who wish to do both things. We can not create a State and keep it as a Territory, too. We have it as a Territory. We may treat it as a Territory as long as we please, but we can not put the toga virilis of State manhood, so to speak, upon it and still keep the swaddling clothes of Territorial infancy around it. The moment it becomes a State the Territory ends. You can not have

one community as a State and a Territory at the same time. As no physical body can occupy two places at the same time, so no community can be classified as possessing two different characters of political community. It must be a State or it must be a Territory. If it is a Territory, you can make such provisions as belong and pertain to Territories about it, but what is the propriety of the Congress of the United States creating and setting up a pretense, an unequal State in the American Union, and yet so reluctant to relax its grasp upon it as to try to put around it the arms of Congressional authority and say: "Now, be good, and let us still be your guardian and you still be our ward."

This, Mr. President, is a legislative paradox. It is a patent absurdity, to speak in a legal sense, and it ought to be stricken out of this bill because if it should ever be brought into court the judge would instantly annul it.

It will be observed, Mr. President, that all the temperance provisions which are contained in the amendment offered by the Senator from New Hampshire [Mr. GALLINGER] and those which are contained in the first of the provisions alluded to here are all made dependent upon, and declared to be forever hereafter irrevocable without, the consent of the United States. Were this act to go into operation, with that proposition in this statute, and if it were a valid proposition, we would have this strange and incongruous condition in the United States. There would be forty-five States that could change their constitutions to suit themselves. There will be one anomalous sort of a State that had bound itself, so to speak, in treaty with the Congress of the United States never to change its constitution. There are such things as the inalienable rights of man. A man can not sell himself into slavery. There are also such things as the inalienable rights of States.

A king can not give away his crown, and a State can not pawn and fling away its sovereignty. I do not speak of State sovereignty as if a State were a nation. It is not a nation, but as to some things it retains its sovereignty. Vermont, or Wisconsin, or New York, or Minnesota, or California, or Connecticut, or any State you choose to name, which is to-day a coequal State in the American Union, would defend that sovereign right as quickly as it would defend the sacred right that pertains to statehood or to local community government. As every Senator here represents a State of which he is the spokesman and the champion to defend that equal right, how can he condescend to attempt to deprive of that right even the weakest of those who knock at our door and plead for statehood in equality and in coordinate relation?

It is beneath the dignity of the Senate of the United States. It would be a condescension of the Congress of the United States to attempt to tie this rope around an aspirant for the great dignity of statehood.

The PRESIDENT pro tempore. The time of the Senator from Virginia has expired.

The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. CARMACK].

The amendment was agreed to.

Mr. BARD. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The Senator from California offers an amendment, which will be stated.

The SECRETARY. It is proposed to strike out all of sections 19 to 37, inclusive, and to insert in lieu thereof the following:

Sec. 19. That the inhabitants of all that part of the area of the United States now constituting the Territory of New Mexico, as at present described, may become the State of New Mexico, as hereinafter provided.

Sec. 20. That all qualified electors of said Territory, as described in this act, are hereby authorized to vote for and choose delegates to form a convention for said Territory; such delegates shall possess the qualifications of such electors. The aforesaid convention shall consist of seventy-five delegates elected to said convention by the people of the Territory; and the governor, chief justice, and secretary of said Territory shall apportion the delegates to be thus elected from the Territory as nearly as may be equitably among the several counties thereof in accordance with the population as shown in the United States census of A. D. 1900; and the governor shall, within thirty days after the approval of this act by the President of the United States, by proclamation, in which such apportionment shall be fully specified and announced, order an election of the delegates aforesaid, to be held on the tenth Tuesday after the approval of this act as aforesaid; and the proper officials, as now provided by law in said Territory, shall immediately upon the issuance of such proclamation, make, or cause to be made, as the case may be, in time for the election, a supplemental or general registration, as may be necessary, of the male citizens of the United States over the age of 21 years who shall have resided in said Territory for six months, in the county for ninety days, and in the precinct, ward, or election district where they are to vote thirty days next preceding the date fixed for said election, whose names shall be placed upon or added to the great registers, or registration lists, as the case may be, exhibiting the names of the qualified voters of said Territory. And the persons so qualified shall be entitled to be so registered and to vote for delegates to the constitutional convention. Such election for delegates shall be conducted, the returns made, and the certificates of persons elected to such convention issued, as near as may be, in the same

manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature, save that not more than two judges of each of the election boards holding elections under this act shall be of the same political party. Persons possessing the qualifications entitling them to vote for delegates to the constitutional convention under this act shall be entitled to vote on the ratification or rejection of the constitution submitted to the people of said Territory hereunder, and on the election of all officials whose election is taking place at the same time, under such rules or regulations as said convention may prescribe, not in conflict with this act: *Provided*, That said registration lists shall answer for both or all such elections.

Sec. 21. That the delegates to the convention thus elected shall meet in the hall of the house of representatives of the Territory of New Mexico, in the city of Santa Fe therein, on the fifth Monday after their election, but they shall not receive compensation for more than sixty days of service, and after organization shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and State government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, except as hereinafter provided, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and such Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory of New Mexico shall be assumed and paid by said State, and that said State shall be subrogated to all the rights of reimbursement which said Territory now has.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and that said schools shall always be conducted in English: *Provided*, That nothing herein shall preclude the teaching of other languages in said public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers.

Sixth. That the capital of said State shall temporarily be at the city of Santa Fe, in said Territory of New Mexico, and shall not be changed therefrom previous to A. D. 1910, but the location of said capital may, after said year, be permanently fixed by the electors of said State, voting at an election to be provided for by the legislature.

Sec. 22. That in case a constitution and State government shall be formed in compliance with the provisions of this act, the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection, at an election to be held at a time fixed in said ordinance, which shall be not less than sixty days nor more than six months from the adjournment of the convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution and for or against any provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe; who, with the governor and chief justice of said Territory, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the said canvassing board shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if the provisions in this act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of the votes cast thereon and a copy of said constitution, articles, propositions, and ordinances from said board, to issue his proclamation announcing the result of said election, and thereupon the proposed State shall be deemed admitted by Congress into the Union, under and by virtue of this act, under the name of Arizona, on an equal footing with the original States, from and after the date of said proclamation.

The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election shall be forwarded and turned over by the secretary of the Territory of New Mexico to the State authorities.

Sec. 23. That until the next general census or until otherwise provided by law said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and all other officers provided for in said

constitution, shall be elected on the same day of the election for the adoption of the constitution; and until said State officers are elected and qualified under the provisions of the constitution, and the State is admitted into the Union, the Territorial officers of said Territory shall continue to discharge the duties of their respective offices in said Territory.

SEC. 24. That upon the admission of said State into the Union there is hereby granted unto it, including the sections thereof heretofore granted, four sections of public land in each township in the proposed State for the support of free public nonsectarian common schools, to wit: Sections numbered 13, 16, 33, and 36, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of Congress other lands equivalent thereto, in legal subdivisions of not less than one quarter section and as contiguous as may be to the section in lieu of which the same is taken; such indemnity lands to be selected within said respective portions of said State in the manner provided in this act: *Provided*, That the thirteenth, sixteenth, thirty-third, and thirty-sixth sections embraced in permanent reservations for national purposes shall not at any time be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants of this act, but such reservation lands shall be subject to the indemnity provision of this act.

SEC. 25. That 200 sections of the unappropriated nonmineral public lands within said State, to be selected and located in legal subdivisions, as provided in this act, are hereby granted to said State for the purpose of erecting legislative, executive, and judicial public buildings in the same, and for the payment of the bonds heretofore or hereafter issued therefor.

SEC. 26. That in addition to the foregoing, and in addition to all lands heretofore granted for such purpose, there shall be, and hereby is, granted to such State, to take effect when the same is admitted to the Union, 300 sections of land, to be selected from the public domain within said State in the same manner as provided in this act, and the proceeds of all such lands shall constitute a permanent fund, to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 27. That nothing in this act shall be so construed, except where the same is so specifically stated, as to repeal any grant of land heretofore made by any act of Congress to said Territory, but such grants are hereby ratified and confirmed in and to said State, and all of the land that may not, at the time of the admission of said State into the Union, have been selected and segregated from the public domain, may be so selected and segregated in the manner provided in this act.

SEC. 28. That 5 per cent of the proceeds of the sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 29. That all lands herein granted for educational purposes may be appraised and disposed of only at public sale, the proceeds to constitute a permanent school fund, the income from which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than five years, and such common school land shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 30. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the proposed State, and in lieu of any claim or demand by the said State under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the said State, and in lieu of any grant of saline lands to said State, save as heretofore made, the following grants of land from public lands of the United States within said State are hereby made, to wit:

For the establishment and maintenance and support of insane asylums in the said State, 200,000 acres; for penitentiaries, 200,000 acres; for schools for the deaf, dumb, and the blind, 200,000 acres; for miners' hospitals for disabled miners, 100,000 acres; for normal schools, 200,000 acres; for State charitable, penal, and reformatory institutions, 200,000 acres; for agricultural and mechanical colleges, 300,000 acres; for schools of mines, 200,000 acres; for military institutes, 200,000 acres.

SEC. 31. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of the said State, by a commission composed of the governor, surveyor-general, and attorney-general of said State; and no fees shall be charged for passing the title to the same or for the preliminary proceedings thereof.

SEC. 32. That all mineral lands shall be exempted from the grants made by this act; but if any portion thereof shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State in lieu thereof.

There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$2,500,000 for the use and benefit of the common schools of said State. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid. Said appropriation of \$2,500,000 shall be held inviolate and invested by said State, in trust, for the use and benefit of said schools.

SEC. 33. That the said State, when admitted as aforesaid, shall constitute one judicial district, to be named the district of New Mexico, and the circuit and district courts of said district shall be held at Albuquerque for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the ninth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in said district to which he is appointed. There shall be ap-

pointed a clerk of said court, who shall keep his office at Albuquerque, in said State. The regular terms of said district and circuit courts shall be held in said district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned for service in both said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of New Mexico.

SEC. 34. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court, respectively, hereby established within the said State, or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the said Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the said Territory mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals as they shall have had by law prior to the admission of said State into the Union.

SEC. 35. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of said Territory at the time of the admission into the Union of the said State, and arising within the limits of such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said Territory at the time of the admission of said Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any Territorial court in said Territory shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or State court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party transfers shall not be made to the circuit and district courts of the United States except upon cause shown by written request of one of the parties to such action or proceeding filed in the proper court, and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 36. That the constitutional convention shall by ordinance provide for the election of officers for a full State government, including members of the legislature and one Representative in Congress, at the time for the election for the ratification or rejection of the constitution; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the constitution of said State shall be ratified by a majority of the legal voters of said Territory voting at the election held thereafter as hereinbefore provided, but not otherwise, the legislature thereof may assemble at Santa Fe, organize and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law, and when such State is admitted into the Union, as provided in this act, the Senators and Representatives shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the State government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws of said Territory in force at the time of its admission into the Union shall be in force in said State until changed by the legislature of said State, except as modified or changed by this act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 37. That the sum of \$100,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and conventions provided for in this act; that is, the payment of the expenses of registration and holding the election for members of the constitutional convention and the election for the ratification of the constitution at the same rates that are paid for similar services under the Territorial laws, respectively, and for the payment of the mileage for and salaries of members of the constitutional convention at the same rates that are paid the said Territorial legislatures under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, That any expense incurred in excess of said sum of \$100,000 shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded, to be locally expended in the present Territory of New Mexico, through the secretary of said Territory, as may be necessary and proper, in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this act.

Amend the title so as to read: "An act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States."

Mr. BARD. Mr. President, I desire to explain the purpose of this amendment. It eliminates from the House bill, after section 19 to the end of the bill, all reference to the Territory of Arizona, and provides for the admission of New Mexico as a State.

Each one of the previous articles follows precisely the terms and language of the House bill as amended by the Senate, with one exception, and that is in section 32 of the bill now before the Senate, where it was provided that the proposed new State of Arizona, including the Territory of New Mexico, should be granted \$5,000,000 for school purposes. This amendment provides that one-half that amount shall be appropriated for public schools in the State of New Mexico. The amendment is like the bill itself in all respects referring to New Mexico, and it follows also the provisions of the amendments proposed by the Senator from Colorado [Mr. PATTERSON], the Senator from North Dakota [Mr. McCUMBER], and the Senator from Ohio [Mr. FORAKER].

Mr. HOPKINS. Mr. President, I am opposed to the amendment offered by the Senator from California, and I trust that upon a vote that amendment will be defeated. It is unnecessary for me to say at this stage of the discussion that the Senate has embarked upon the most important legislation that it has been called upon to consider during the present session of Congress. The making of a new State is a matter of grave importance—much more so than legislation relating to tariff or finance. We know that time and trade conditions affect the tariff conditions of the country, so that there must be a revision of that kind of legislation, and the success of one or the other of the great political parties which controls the destinies of this Republic may control the financial policy of the Government, or change it, as is determined by the success of the one or the other of the parties.

It is not so, however, when we admit a Territory as a new State into the Union. That legislation can not be reenacted; it can not be taken back. The admission of a new State into the Union affects all of the other forty-five States that form this great Republic. It requires a readjustment of the rights of all the States and of all the people who live within the limits of the several States.

When these Territories are admitted they are not admitted in degree. There is no State in the Union that is admitted in any degree. If it is admitted at all it has the same rights and privileges in this Chamber and in the other branch of Congress that any one of the old original thirteen States has. It has the same influence in this body upon legislation that the great State of New York, Pennsylvania, or Illinois has.

Hence, I say it is important that we should look carefully upon these questions to know that after the action is taken the result will not only be beneficial to the people living within the limits of the Territory that is admitted as a new State, but that the influence will be beneficial to the other forty-five States that are already in the Union.

The Senator from North Dakota [Mr. McCUMBER] during the progress of the debate here to-day has called attention to the fact that some of the New England States and Delaware are small States, and he has used that as an argument why we should admit Arizona and New Mexico, with the sparse population in those Territories, as sovereign States in the Republic.

Mr. President, does not every student of American history know that there is no relation between any of the New England States, who were a part of the original compact, and the admission of a new State into the Republic? Take the States of Delaware, Rhode Island, New Hampshire, and Massachusetts. We would have had no Federal Republic had not they united under the form of government we have to-day. We could have admitted no new States from the territory we possess had not the thirteen original States united into a Federal Republic. History, however, bears me out in the statement that from the earliest time we have exacted larger territory and a larger population for the new States than was had in a number of the original States.

Senators have spoken of Vermont. As has been well said by the senior Senator from that State, Vermont was an independent Commonwealth during the progress of the Revolutionary war. She sent her soldiers to the front and helped fight the battles of our country, as did the other thirteen colonies, and when she came knocking at the door to be admitted as an independent State in the Republic she was admitted, and properly admitted, because she possessed all of the requisites the original thirteen States possessed.

That, Mr. President, is not the condition to-day. The amendment submitted by the Senator from California proposes to admit New Mexico as a separate and independent State in this Republic. I protest, in the name of the people whom I in part represent upon this floor, against such action on the part of the Senate as that. I claim that the people are not prepared for statehood.

I have stated, Mr. President, that when we admitted new States we had larger territory than the original thirteen States possessed. Take the States that were embraced in the Ordinance of 1787. In the discussion that was had by the fathers of the Republic it was proposed by some that that magnificent territory should be divided into ten States, giving twenty Senators in this body. But it was opposed, and very properly opposed, and when the ordinance was adopted it was provided that that Territory should be divided into not less than three nor more than five States. One of those States is the great State of Illinois, and instead of having a few thousand square miles it is an imperial State that embraces within its limits 56,000 square miles. It has more than 32,000,000 acres of the best land there is in this entire country.

Now, how is it with the proposed State of New Mexico as advocated by the amendment of the Senator from California? I have figures before me which show that to-day there are only 254,945 acres under irrigation, or susceptible of grazing or agricultural purposes. Think of it for a moment! A Territory that has had a separate and independent existence for fifty years, and yet within its limits they can show only 254,945 acres that can be cultivated by man.

Compare that with Illinois, with her 30,000,000 acres and more. Compare it with the State of Kansas, with her 41,000,000 acres. Compare the population of New Mexico of less than 200,000 with the 5,000,000 people in Illinois, with the 6,000,000 people in Pennsylvania, with the between 7,000,000 and 8,000,000 people in New York, and then do you say to me, Mr. President, that those people representing that sparsely populated country are entitled to the same representation upon this floor as the imperial States I have named?

It may be said that in the course of time New Mexico may develop in population and in her acreage. This question has been thoroughly investigated by scientific men whose judgment we can take, and they say that under the most favorable conditions, with the United States pouring out millions of money in the interest of irrigation in this country, they can not add to exceed 300,000 acres to the 254,000. So under the most favorable conditions never in the history of that Territory can we get to exceed 554,945 acres of arable land. Think of it for a moment! And again, when you consider the limited area of the Territory, look also at its population. I just said that it to-day has a population of less than 200,000. The Senator from Montana [Mr. CLARK] in his very able and interesting speech made upon this floor the other day in his wildest imagining never put the population of that Territory in the far future to exceed three-quarters of a million of people. In my judgment, under the most favorable conditions fifty years from now will not see 500,000 people within the limits of that Territory.

Now, Mr. President, under those conditions I insist that New Mexico shall not be permitted to exercise the same political rights upon this floor that are exercised by the forty-five States now in the Union.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. NEWLANDS. Mr. President, it is a sufficient answer to the Senator from Illinois [Mr. HOPKINS], whose State was admitted into the Union with a population of only 34,000, that the Territory of New Mexico seeks admission to-day with a population of 300,000, nearly ten times the population of Illinois at the time of its admission to the Union.

If the connection of a Territory possessing 300,000 people with the Union of the States as a sovereign State is to be regarded as a desecration, I ask whether the existence of Vermont in the Union of the States to-day, with only 350,000 people, is a desecration; whether the existence of New Hampshire with an equal population is a desecration; whether the existence of Rhode Island with a population, I believe, less than that of New Mexico to-day, is a desecration, and whether the existence of Delaware as one of the sovereign States of the Union side by side with Illinois is a desecration? I ask the Senator whether the history of any one of these States dishonors the American Union, and whether we are willing to blot out from the history of the Republic the splendid record made by the men of those States in the administration of the affairs of the Union and in the legislation of this very body of which we are members.

Mr. President, the Senator doubtless insists that the population of New Mexico will remain stationary. He declares that there are only 250,000 acres of land under cultivation, or rather,

as he states it, that can be cultivated. Mr. President, it is true that when the last census was taken there were only 250,000 acres of land under actual irrigation, but will the Senator contend for a moment that there are only 250,000 acres of land in that State capable of irrigation?

We have before us the report of the Director of the Geological Survey, who makes a mathematical demonstration that, taking into consideration the water supply of that Territory, the various streams and the adjacent valleys, the agricultural development of New Mexico alone will support 500,000 people.

That is to be the development of the future, the development that is now commenced under the great national reclamation act, which we have recently enacted. If the agricultural possibilities of that State will support 500,000 people, I ask how many of the correlated industries of commerce and of manufacture and of mining will it support? If, with a cultivated area of only 250,000 acres, New Mexico has been able to attain a population of 300,000, I ask what population she will attain when these vast areas are put under cultivation through the beneficent process of irrigation, and when all the related industries of mining and of commerce are built up in connection with the agricultural development?

But, Mr. President, the Director of the Geological Survey has underestimated the agricultural possibilities of that State. He probably makes a mathematical calculation as to the duty of the water now running in the streams, regardless of the fact that as land hitherto arid is put under cultivation the soil will be saturated with water, and that if you put 100,000 acres of arid land under water to-day, though the operation of irrigation may require a large amount of water in the immediate future, yet that water spreading over the soil seeps through it and brings the water level that was from 50 to 100 feet below up to within 2 or 3 feet of the surface, and thereafter a very small amount of water will be needed in that valley to bring crops to perfection. So the very water that is absolutely essential to the reclamation of 100,000 acres of land to-day can three years hence be made to reclaim another 100,000 acres and three years after that to reclaim another 100,000. Therefore it is almost impossible to limit the amount of reclamation that can be accomplished with water which appears in the first place almost inadequate to supply the limited area to which it is applied.

Mr. President, irrigation is in its infancy. In many irrigated districts now they find that they are suffering from a surplus of water, instead of a deficiency of water, and they are compelled to build drainage ditches to carry away the water, instead of canals to carry the water upon the land. This development will be a constantly continuing and progressing development. The imagination of man can not limit its extent.

Now, what about the fertility of the soil? Will the Senator from Illinois contend for a moment that, acre for acre, the soil of Illinois is as productive as that of New Mexico? Does he not know that the soil in New Mexico is almost of limitless depth; that it has not been washed away by torrents of rain, but remains there in all its virgin perfection? Does he not know that the water carried from mountain streams over those lands contains in itself elements of fertility; that it is not the kind of water that falls from the clouds absolutely pure, but water that carries with it mineral and vegetable deposits which in themselves constitute a part of the fertilizing processes of the land, so that the land in the irrigated region never requires the artificial fertilization which is required for other lands?

Does he not know that the sky is cloudless, that the sun beats down with almost unrelenting warmth? Does he not know that when you have a rich soil, abundance of water, and warmth of sun you have all the elements of the most scientific cultivation—not the accidental cultivation of the humid region with its clouded skies, its torrential rains, its floods, and its droughts, but a scientific adjustment of all the relations of agriculture—adjustments of the amount of water required by the soil and a steady continuance of the heat and warmth necessary to generate production? Does he not know that this region is capable of an intensive cultivation, that it raises the most valuable products of the soil, including the tropical and semitropical fruits?

We also know something about the mineral richness of that country. We know that it is rich not only in gold and silver, not only in the discoveries already published to the world, but in wealth yet undiscovered and in resources still undeveloped.

New Mexico has vast areas of land containing asphalt and coal, the basis of great industrial development. And can it be maintained that a country yet in its infancy, a country which since the last census has pretty nearly doubled in population, will remain stationary; that it will remain stationary in population as Vermont has for forty years; that it will remain sta-

tionary in population as New Hampshire has for forty years; that it will be the case of arrested development that Delaware is to-day, with its population of 184,000?

If the history of Delaware, of New Hampshire, and of Vermont is only that of added luster to the Union, I ask what can we expect of this proposed State which has already reached their proportions in population and is simply upon the threshold of the wealth of the future?

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. HEYBURN. Mr. President, a comparative statement of figures sometimes does not convey the fullest or the best understanding of a question. I desire to demonstrate these figures upon the map which has been referred to. I have made a cardboard which exactly conforms to the size of the proposed State of Arizona on the map. The junior Senator from Illinois [Mr. HOPKINS] insists upon the admission of this Territory comprised of Arizona and New Mexico as one State. It is represented by this cardboard exactly [indicating]. I desire to place the cardboard representing that State on the Northwest Territory, out of which five great States of the Union were made. That cardboard represents nearly 20,000 more square miles than the Northwest Territory, out of which Ohio, Indiana, Illinois, Wisconsin, and Michigan were carved. At the time that they were created States they contained less population than New Mexico contains to-day, according to the census of the United States. The fertility of their soil and their resources were as unknown at the time when those States were erected as are the resources and the fertility of the soil of Arizona and New Mexico to-day. They contained a larger Indian population in proportion to the white population; they contained a larger illiterate population in proportion to the intelligent population than Arizona and New Mexico to-day. I again place this piece of cardboard on the map over the territory that at that time was known as the "Southwestern Territory." It comprises more acres of land, more square miles, than that Southwest Territory that was created into this great belt of Gulf States; and at the time of the creation of those States less was known of their resources, and they had not been demonstrated as have the resources of New Mexico and Arizona to-day.

When we are making States, we are making infant States always. We are making them upon the faith that they will grow and become of more importance. It is not supposed that these Territories are to remain out of the Union until they have attained the proportions of the great empire States, as we term them.

Those people are our people. They are your younger sons that went from your homes because the home nest had grown too small. They are the ambitious members of your families, who went down there carrying with them the pledge that if they would go out upon the picket post of civilization and fit it for statehood you would give it to them. Have you lost faith in your pioneers who went out there? They were not the sloths or the drones of civilization. They are the best blood of the United States, even though they have in their midst the Aztec, the Mexican, or the Indian. When they went there they carried with them that pledge that had gone always to the frontier, that "if you will go into these new lands and reclaim them and produce conditions that fit them to be States, we will give you statehood."

We are here called upon to-day to redeem that pledge. We are not asked to take them upon faith alone into the family of States. We are not asked, as they were when they made five States out of the Northwest Territory, to rest upon the assurance that those people would eliminate the Indians and the savagery.

The Senator from Indiana [Mr. BEVERIDGE] the other day said that those States contained and carried in their fertile lands a pledge that these States do not carry.

Mr. President, the natural fertility of the soil of Arizona and New Mexico is greater than the natural fertility of the soil of the Lake States. It needs only that water shall be applied to those lands to double the product per acre of any State along the Lakes or elsewhere in the eastern part of this country. That has been demonstrated, so that it is no longer a question which can be doubted.

Mr. President, the proposition to admit New Mexico as a State, as provided by this amendment, will settle this question. New Mexico itself is larger than nearly any other State that has been admitted to the Union. We leave Texas out of consideration, because Texas came to us by treaty, and so it is not at all within the rule under consideration. But New Mexico has the natural resources, has the population, has the enterprise

that entitles it to statehood, and I think this amendment should be adopted.

Mr. SPOONER. Mr. President, I sincerely hope the pending amendment will not be adopted. Oklahoma and the Indian Territory under this bill are to come in as one State. In natural resources they supplement each other, and from every conceivable standpoint Oklahoma and the Indian Territory are entitled to come into the Union as a State. If there is any possible theory from the standpoint of to-day why the Congress shall admit into the Union New Mexico as a State, I have not heard it.

It is idle to compare the population of New Mexico with the population of Delaware, with the population of the original States. They did not come into the Union. They made it. They achieved the independence of the United States from Great Britain; they planted our civilization upon this continent, and, Mr. President, they laid the foundation of this Union of 80,000,000 people. It is not to be said in derogation of those States that in some of them population has not increased. It is enough to say of them that they were the original constituent elements of the Union.

It is idle also to say that the ratio of population, upon which should be based the test of statehood, is the same to-day, or should be, that it was fifty years ago. Statehood is not to be determined simply with reference to area.

It is idle, Mr. President, to compare the Northwest Territory in acreage with Arizona and New Mexico. The conditions are utterly different. No chances were taken about the States which were carved out of the Northwest Territory. They lacked only, in order to constitute perfect States, population, and it was the theory, and it became a fact, that they would be populated by people who came from the original States, as in the first instance they were. They had climate; they had rainfall; they had area, and they had the variety of resources.

It required nothing of prophecy, such as has been indulged in by the Senator from Nevada [Mr. NEWLANDS], as to what their future would be so far as capacity for producing wealth, for development, and for settlement were concerned.

When the amendment proposed by the Senator from Ohio was adopted, leaving it to the people of Arizona and to the people of New Mexico to determine whether they should come into the Union as one State, I supposed it ended, as I think it ought to have ended, this branch of the controversy.

New Mexico may have area sufficient, but that is not enough to make a State; it was not in the olden days, nor is it in these times. To constitute the right to statehood a Territory must have reasonable certainty of growth and development, not from what some gentlemen prophesy may happen in the long reach of time, but based upon what has happened and what is known. I say of the Territory of New Mexico, not intending to deal unfairly in judgment with her people, that she is not fit to come into this Union as a State. She is not fit in point of development. Her mineral resources, so far as they are developed, are a bagatelle in their relation to this question. Her acreage that is thus far demonstrated to be susceptible of tillage is a trifle.

Are we to admit States into the Union upon the prophecy of the Director of the Geological Survey as to what may in the long future develop in the way of cultivable area? Are we to admit States into the Union upon what the Senator from Nevada or any other Senator thinks is the hidden mineral wealth of that region? No man knows what lies hidden in the ground until, through the expenditure of his money, he goes after it. Is it not enough, Mr. President, to say, and is it not true to say, taking all of the data furnished by the distinguished Senator from Minnesota [Mr. NELSON] in his carefully prepared speech, that, from the standpoint of to-day, there have not developed the elements in New Mexico—I mean material elements—to entitle her to take her place in the Union as one of the States? Why not wait a better knowledge of her resources?

That is not all, although, in my judgment, that ought to be enough. The population of New Mexico—and population above all things else goes to make a State—is not a population either in numbers or quality which entitles New Mexico now to be admitted into the Union as a State. When I say "quality," I do not mean, as the Senator from Ohio [Mr. FORAKER] seemed to think was meant the other day—good men and bad men—not that; I do not reflect upon her people, but I say a people who have been organized as a Territory for fifty years, and never yet have become so far assimilated with our population as to be enabled to speak and understand the language of our country, so that the proceedings of the courts, the proceedings of the legislature, the proceedings of conventions need not to be carried on with interpreters, is not the sort of population which ought to be admitted into this Union of 80,000,000 people.

As was reported by the Senate committee in 1902, they have to use interpreters in their legislature in order to make their legislative proceedings understood by the men who make laws for the Territory. The subpoenas and processes of many of the courts are in the Spanish language. We have had to print the statutes for New Mexico on one page in the English tongue and on the other in the Spanish. The committee reported, and it is doubtless the truth, that the arguments of counsel have to be interpreted to the juries; also the charge of the court; and that at times an interpreter must enter the jury room to enable jurors to understand each other; that political speeches have to be interpreted to the audiences, and the proceedings of political conventions have to be interpreted to the delegates in order that they may know for what they are voting and for whom they are voting. Take the list of their council. It reads like the muster roll of a Spanish military company.

Mr. CULLOM. Read some of the names.

Mr. SPOONER. The Senator from Illinois asks me to read some of the names. I do not speak Spanish and, therefore, I must decline. There are able and educated men among the Mexicans of the Territory, but the mass is not so.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. SPOONER. I am sorry, Mr. President, for there is much to be said against this amendment.

Mr. BAILEY. Mr. President, the Senator from Wisconsin [Mr. SPOONER] seldom misunderstands an argument, but on this occasion he has entirely misunderstood the meaning of those Senators who have referred to some of the smaller New England States. He says that these comparisons are idle, because those States made the Union. I appeal to him, if small States could make the Union, may not small States preserve it? Instead of answering our argument, he confirms it. I beg to assure him that when I have alluded to the size of the New England States I have not done so in any spirit of criticism; but I have rather referred to them in justification of my claim that the best States are neither the greatest in population nor the widest in extent. I venture to say that to-day no single State in all this Union exerts a more powerful and, I will add, from a Republican point of view, a more salutary influence upon our legislation than the State of Maine; yet when the last apportionment, based upon the census of 1900, was made, Congress was appealed to to increase the membership of the House of Representatives in order to save the State of Maine from the loss of a Representative. I say that if Maine and Vermont and New Hampshire have honorably and fitly borne their part in the development of this Republic, it does not lie in the mouths of Senators from that region to say that their sons and their grandsons in the far West may not duplicate their virtues.

Mr. SPOONER. If the Senator will allow me, there are 60,000 Mexicans in New Mexico who are neither their sons nor our grandsons.

Mr. BAILEY. I thank the Senator for calling my attention to that, because if the Mexican population is so bad as he describes it, in God's name why will you force them upon the unwilling people of Arizona? If he will not associate with them, I ask what defense he will make to his conscience and his people for forcing them upon the protesting but helpless citizens of Arizona? That is a question the Senator must answer.

Ah, Mr. President, the question here is not so much what Arizona is—it is what will Arizona be? We are not legislating for this day, nor for this decade, nor even for this century; we are building, sir, for all time; and he is a shortsighted Senator who can not look down the long flight of the years to come and see this struggling and sparsely settled Territory grown into a prosperous and a populous State.

The same argument which is urged upon us here has been employed against the admission of many States whose thousands of industrious and happy people now are contributing to the wealth and the glory of this Republic. Neither the Senator from Wisconsin nor any other Senator on this floor can look into the future and tell what seeds will grow, and I affirm that we know more to-day of New Mexico and Arizona than our fathers knew of the great Northwest Territory when they carved it up into sovereign States.

I plead now for more. Where twenty massive columns rise, let us add these that in their strength they may add to the strength of others, until upon their lofty heads the splendid entablature of this Union shall rest secure forever.

Mr. ELKINS. Mr. President, I can not allow this opportunity to pass without saying a word in behalf of a people and a country to which I am sincerely attached, and I can not remain silent after the statement made by the Senator from Wisconsin [Mr. SPOONER], that a people whom I know well to be worthy, deserving, and law-abiding citizens, and among whom

I lived so many years, are unfit to be admitted to statehood and become a part of this Union. I feel I owe it to justice to defend the people of New Mexico when attacked as they have been in this debate. They are misunderstood and shamefully misrepresented.

All the rules that have heretofore governed the admission of States have been violated in this attempt to longer keep New Mexico out of the Union. Tried by any rule that heretofore has obtained in the history of the Government, New Mexico ought long ago to have been admitted into the Union as a State without Arizona or any other Territory attached or made a part of it.

The chief argument of the Senator from Wisconsin is that part of the people of New Mexico—and I say part, because he surely could not have meant all—did not speak the English language.

First I want to say to him that about half the people of New Mexico are Americans. This half speak the English language; they are cultivated and educated people who in every respect will compare most favorably with the people of Wisconsin or any other State in the Union. The fact that the other part or half of the people of New Mexico do not speak the English language should not be urged as a reason why they should be refused the rights of statehood.

There are thousands, I may say hundreds of thousands, of people in the United States—good citizens—who do not speak the English language, but it does not follow that these people should be denied the rights of citizenship or discriminated against in any way.

Let me tell the Senator that for fifty years the State of Louisiana, and I do not know but that it does to-day, published its laws in French and English, and in the early history of Louisiana French was spoken in the legislature and the laws were published in French, and to-day in Canada the daily proceedings of the Canadian parliament are published in French as well as in English.

Mr. PERKINS. That was true in California for twelve years.

Mr. ELKINS. And California for twelve years did the same thing. It is no impeachment of people that they do not speak the English language. These Mexican people came to us as a conquered people and not of their own volition. They became a part of this country not by choice, but by force of arms.

If they were good enough to be annexed to the United States and to be made citizens of the United States and to have their territory become a part of the territory of the United States, why draw the line against making them full-grown citizens of the Union by allowing them to become a State? Why keep them in servitude, in vassalage and pupilage for fifty years before admitting them into the Union? There is nothing in the argument. It does not appeal to the intelligence of fair-minded men. What a poor excuse for denying to a Territory with the requisite population its right to become a State.

Mr. President, so much for a part of the people not speaking the English language. These people, these Mexicans, so despised here in the Senate are a law-abiding and religious people, they have more churches than can be found in any other part of the country in proportion to population. They have good schools, good libraries, and good public institutions. I say to-day they are and have always been loyal to the Union and good law-abiding citizens. They knew enough to fight for the Union and to help save it, and they knew enough to send a splendid regiment to the Spanish war.

When the life of the Union was trembling in the balance and strong hearts were depressed, Mexican soldiers were welcomed into the Union armies, officered by native Mexicans. The great Lincoln did not ask, Congress did not ask, no Senator asked if they spoke the English language and declared they were unfit to serve as soldiers, and no Senator should now proscribe and cast them out because they don't speak English.

Mr. President, the character of the Mexican people can not be successfully attacked. A committee running through the Territory of New Mexico, witnessing the country from a Pullman palace car window, lingering only a few days here and there, can not form any adequate idea of a great Territory, its people, and institutions, and they can not instruct me about the resources of New Mexico or misrepresent the character of her people without a protest from me.

Mr. HOPKINS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from West Virginia yield to the Senator from Illinois?

Mr. ELKINS. I have only ten minutes. Your State had only 55,000 people when admitted and New Mexico has five times as many.

Mr. President, I want to call the attention of Senators to the declarations of three Republican national conventions, held in

1888, 1892, and 1896, all to the effect that these Territories should be admitted into the Union. I believe, however, they have been read in this debate, and I will not take up the time of the Senate to read them in detail. One Democratic national convention arraigned the Republican party for not admitting these States into the Union according to pledges and promises. The Democratic party also declared in favor of the admission of the Territories as States.

And, Mr. President, let me say of the great Democratic party—or the small Democratic party since the recent election—that I believe its members here are making an earnest and honest effort and struggle to do right and keep the pledges made in their national platform, and I am sorry to say the Republican party in Congress is trying to violate its solemn pledges made in three national conventions.

The Senator from Illinois says he can not vote for this amendment. Then he is voting directly against the pledges and declarations of the three national Republican conventions. Now, which is to be trusted, or should be, the conscience and judgment of the Senator from Illinois or the Republican party, speaking in three national conventions? Why not stand and vote with your party? A national convention speaks louder than individual opinions of Senators, and it ought to be more binding.

Mr. HOPKINS. Let me interrupt you now.

Mr. ELKINS. No; I can not. Mr. President, I have not the time to read the declarations of these conventions, but I wish to read from a distinguished Senator who I hope will vote with us on this question, and who was chairman of the Committee on Territories long ago, and who said this:

The Territorial system was adopted only as a matter of necessity, in order that there might be some government in an undeveloped and sparsely settled region. And whenever settlement and development make it possible for a people to sustain a State government, according to the principles of the Federal Constitution, the Territorial government should be abandoned and the privileges of State citizenship conferred upon its people.

That was said by the Senator from Connecticut [Mr. PLATT] when he was on the Committee on Territories. No abler, no better Senator ever occupied a seat in the Senate, and I am pleased to follow him when he speaks as chairman of the Committee on Territories; but I can not in the Senate, when he tries to deny the rule he laid down as chairman of the Committee on Territories.

Mr. President, there is one other authority which I quote. When Benjamin Harrison was on the same committee he confirmed this rule of the Senator from Connecticut, and said:

Territorial governments were always regarded as fomite and temporary, to be superseded by State governments as soon as the necessary conditions existed.

But, fellow-Senators, beyond all this stands the treaty of Guadalupe-Hidalgo, the ninth article of which pledged the faith of the United States, when this country was taken over by solemn treaty, that these people should be admitted to the full rights of citizenship and become a part of the Union. That ninth article stands to-day violated, and has been shamefully violated for fifty years. If the Republic of Mexico were equal in strength and power to this Republic, I believe this article would not have been so long and so flagrantly violated. It does seem to me the solemn pledge should be kept to those people. Fifty years ago they thought they were going to become American citizens and entitled, as they were promised, to all the rights and privileges of American citizens. But, Mr. President, this has been constantly and persistently denied.

I see the Senator from Wisconsin in his seat. He complains because they can not speak the English language. Are all the people in the world who can not speak the English language to be condemned and denied the rights of citizenship and to live in vassalage perpetually? Mr. President, I am afraid there is more in this than appears on the surface. The fact is there is growing up in the States where the Republic is now controlled a jealousy of new States. This question ought to be tried on its merit and settled on its merit and not on the prejudice against incoming States which might vote this way or that way or the other way. Above all it should be settled on the eternal principles of justice and not on how these States will or may vote politically. We have had expressions from the Republican party to this great convention. We have them right along.

I know the Senator from Wisconsin wants to ask me why the party did not make some expression in the last convention; and I will tell him, and I will tell the Senator from Illinois. It was because the Republican party lost confidence in the Senate and could not trust it any more to give it any directions on this subject. Here we stand before the world not only violating our own pledges recently made as Republicans, pledges unanimously

made, but standing here as violating the pledges of a sacred treaty entered into when these people became citizens of the United States or supposed they were to become citizens of the United States.

Now, Mr. President, one word about the resources of New Mexico and its limited agricultural area. New Mexico exceeds in wool producing any State in the Union. It has rich deposits of oil, coal, and iron. It has gold and silver mines. Its soil is unsurpassed in richness—it never needs fertilizing, and when irrigation becomes successful and general, as it will be, New Mexico will be a great and rich State.

I stated without hesitation, in my opinion, in point of agriculture it is destined to rival the greatest States of the Union. As soon as the water can be impounded and saved, as it will be in the near future, millions and millions of acres of the most fertile lands in the world will be brought under cultivation. The arid lands of the West are destined to become the great wheat fields of this country. Senators who have not visited New Mexico, and are unacquainted with its resources, can form no idea of its great agricultural and other wealth.

The PRESIDENT pro tempore. The time of the Senator from West Virginia has expired.

Mr. MORGAN. Mr. President, in acting upon the question of statehood for New Mexico we ought to have some respect for our own legislative history. I am informed by the Delegate from New Mexico, who is a very accurate gentleman and who has penetrated this subject to the bottom, that beginning with 1850 the respective Houses of Congress have at different sessions of Congress voted for bills to admit New Mexico into the Union seventeen times. I thought the question was settled as to the qualification of New Mexico in respect of population and area and the character of her population and the language that her people spoke, by many, many votes of the respective Houses of Congress. Seventeen bills have passed at different sessions since 1850 to admit New Mexico as a State in the Union, and yet here to-day we are making question with regard to her right to admission upon the ground of her Territorial area and her population. That does look as if the Senate of the United States were trifling with this subject.

The record thus solemnly made by the two Houses at different sessions since 1850, when this matter has been the subject of close, earnest debate, ought to have an impression upon this body. We can not justify ourselves in going before the world and refusing to admit New Mexico into this Union as a State upon any ground that has been stated here to-day. The ground has been thrashed over now for more than half a century. The Congress of the United States has been endeavoring to comply with its contract contained in the treaty of Guadalupe Hidalgo, but one reason and another, most usually political reasons, have prevented the two Houses from concurring at the same session upon the same bill. Therefore New Mexico has been kept out of the Union. I do not wonder that her people are suspicious of the good faith of the people of the United States.

It will not do for us to say that a State can not be admitted into the Union because her people do not speak the English language. It has been stated here by the Senator from West Virginia [Mr. ELKINS] that that matter has not heretofore been considered a question of any importance at all in the admission of States into the Union. Take Oklahoma. There are five civilized tribes, each of them speaking a different language, each one having a written language, and in the Cherokee country they have that wonderful alphabet of the great Indian Sequoia, whom I happened to know when I was a child. Their laws have been published both in the Sequoia alphabet and in English. They have published their constitution, and I have often said, when reading the constitution of the Cherokee Nation, for instance, that I would be perfectly willing to adopt it as a constitution for the State of Alabama. It is a most admirable document.

Some of the Five Tribes speak the English language; not all; perhaps not half; and those who speak it speak it imperfectly, with a brogue; but we do not think of excluding them from statehood or Territorial government or from the benefits of any of our laws because of their difference in language. The application of this argument to New Mexico to-day, after more than fifty years during which it has been considered here in Congress, seems to me is not sincere.

Mr. DOLLIVER. Mr. President, I have listened for many years to discussions about the admission of these southwestern Territories, and I wish to confess, before I go any further, that I have for most of that time had definite convictions only in respect to the Territory of Oklahoma. I reckon that arose out of the fact that I knew more about that community than about the other Territories embraced in this controversy. Most of those people went there from the States of Iowa and Kansas,

and I knew them to be good people and fit for any gift this Government might bestow upon them.

I will confess also that I have more concern for them now than I have for any of the other people interested in this discussion. They have built there one of the model American Commonwealths. Such a thing never happened before in our world; of a population 500,000 strong, taking their churches, their schoolhouses, and their printing presses with them, and within a few months setting up all the machinery of government and civilization, as our people did who settled the Territory of Oklahoma.

I have seen a good many times since the question of these Territories came up when I wished that we might have that sense of justice and that practical good sense to separate that community of nearly a million trained American citizens from the other populations involved in this bill, and give them, on their merits and of right, their title of admission into the American Union. But an observation running over a period now of many years has convinced me that if the people of Oklahoma ever come into the Union they must come hand in hand with other communities, whether they are entirely satisfied with them or not.

I would not for anything say a word of disparagement about the Indian Territory. I am especially forbidden to do it by the lack of definite knowledge and information that could only come from actual association with and living among those people; and therefore I have concluded, not without regret, not without misgivings, to put aside whatever prejudices I may have against the combination of the Territory of Oklahoma with the remnants of the Indian tribes who have been domesticated for more than half a century in the Indian Territory.

I have had a good deal more trouble to give up my prejudices against the admission of the Territories farther south, and I would not give them up if I felt certain that my prejudices were founded upon fact. I know they have only a few people, but I do not know what the future of these Territories may bring forth. I do know that we have hardly ever had a statesman in the United States who had sense enough to see what was going to happen to the American frontier, and I recall reading speeches made by a man no less farsighted than Daniel Webster predicting that the whole Northwest Pacific region would remain forever an uninhabited and worthless wilderness.

The State in which I myself live had the west half of it once dismissed by a geologist as an uninhabitable desert, fit only for sand snipes and prairie wolves. So I have come to receive with a good deal of timidity predictions about the future of great areas of the West.

I know one thing for an absolute certainty, that you can not have a great population or a great civilization where it does not rain. I have seen enough of this country to know that mud and civilization go together; at least they have in all previous ages of the world. It may be that we have come to a time when we will have to reverse that rule, and it may be that the Secretary of Agriculture is more nearly correct—and I rely upon him a good deal more than I do upon the Director of the Geological Survey—when he said, as he did one day last summer in western Kansas, that "the good Lord above us never made an acre of land in America that can not be used, if we only have the wisdom to find out how to use it."

I have an opinion—I hope it may be true—that most of us will live to see the brain and genius of man, in combination with the infinite resources of the Government of the United States, redeem from the desert even such backward and unpromising Territories as New Mexico and Arizona.

So I have managed with a good deal of difficulty to get rid of my prejudices on that account. But I have not been able to get rid of the idea that if we are going to admit those communities we ought to say to them in kindness, "Get together, if you can, and come as one State into the Union. There are doubts and anxieties and uncertainties about your future. Pool your issues, if you are able to do it. Dismiss your neighborhood differences. Unite together, and we will admit you to the Union, if on no other theory, on the theory of the unjust judge in the Gospel, who was worn out by a petitioner's oft coming forward with her claims."

And so I have made up my mind that the committee, which has given immense labor and research to this question, has hit upon the only practicable solution with respect to the remaining Territories that we are likely to have in this generation; and dismissing all doubts and fears for the future, and with absolute confidence in the American frontier, whatever language it speaks or whatever may have been the conditions of its previous civilization, I think the best thing we can do is to end this controversy by supporting the bill brought in by the Committee on Territories.

Mr. FORAKER. Mr. President, I wish to call attention to some figures in answer to what has been said in opposition to this amendment. I think they will answer conclusively every suggestion that has been made. Certainly they will if we are to pay any attention in taking present action to the precedents we have heretofore established.

There are in the Territory of New Mexico 300,000 people. I think I would be justified in saying 350,000 people, but certainly it is conservative to say 300,000 people. This people have produced wealth there to the amount of more than \$350,000,000. They have 3,000 miles of railroads constructed and in operation. They have more than \$10,000,000 invested as capital in banking institutions of the Territory. They have 75 newspapers. They have over 800 schools, in which their children are being educated. They own more than \$2,000,000 of school property. They have State universities, colleges, great normal institutions, and, as I have already indicated, one of the best school systems that can be found in any community in all this country.

They are making rapid progress. Their progress for a time was indeed slow. But the reason for that has already been pointed out. Not until within the last twenty-four months have the titles to their lands been settled through the action of the Court of Private Land Claims which the Government established there some ten years ago. Now men are taking homesteads, building up farms, and engaging in other industries. Almost every vocation is well represented. They have not only agriculture and mining, but they have cattle raising, and nearly all of their territory is being employed in some useful way.

Now, as to the character of their people. It has been said that half of them speak only the Spanish language. That I think is an overstatement. About half of them, perhaps a little more than a majority, are Spanish-Americans, but the great body of Spanish-Americans understand the English language, and most of them who participate in public affairs speak the English language as well as the Spanish language.

The Senator from Wisconsin declined to read the list of names that had been sent him of members of the legislature in New Mexico, on the ground that he can not read the Spanish language. I have the same list here. Let me read it to the Senator and to the Senate, and see whether or not there is any difficulty either in pronouncing the names, as the Senator indicated there was, or in understanding that they have splendid capacity to legislate for their community and to legislate satisfactorily for the State if we give them statehood.

Col. J. F. Chaves, an American, a man who was a colonel in the civil war; Thomas Hughes, a scholar of fine attainments, the publisher and editor of the Daily Citizen, of Albuquerque, N. Mex.; George F. Albright, a scholar of high attainments, publisher and editor of the Daily Journal Democrat; W. H. Andrews, a miner and railroad builder, formerly of Pennsylvania; C. A. Spiess, a lawyer of considerable attainments, present district attorney for the fifth district of New Mexico; James S. Duncan, railroad and irrigation contractor and builder; Albert B. Fall, late associate justice of the supreme court of New Mexico, a lawyer of high attainments; W. A. Hawkins, a lawyer of exceptionally high standing; M. Martinez, ranchman and stock raiser, a good scholar and linguist; has had large experience as a legislator; a native of New Mexico; V. Jaramillo, ranchman and stock raiser, a young man of education and of high social attainments, a graduate of Notre Dame College, Indiana, a native of New Mexico; Amador Chavez, a native of New Mexico, ranchman and stock raiser, late Territorial superintendent of education, late mayor of the city of Santa Fe, and so on. I have read enough to give you a fair example of the composition of the legislature of New Mexico.

These are the men who are chosen to those responsible positions by the electors of New Mexico at their elections. Is it any wonder when we see the character of these men that it should be true, as has been stated in this debate, that after fifty years of legislation we can look back over the records and find not one single statute enacted in that Territory which the Congress of the United States, although having the power to do so, has ever seen fit to abrogate or modify in any particular whatever?

Now, as to interpreters; for I must hurry along. The same statement from which I have been reading shows that in only six counties in New Mexico has it been necessary for some years past to use interpreters in courts. It is necessary to use an interpreter in the courts in Cincinnati, where I live. It is necessary to use an interpreter in the courts of Chicago, and it is necessary to use an interpreter to a greater or less extent in every other great city in this country where men of foreign birth come to testify or to appear as litigants. In New Mexico it is perhaps true in a greater degree, but the use of interpreters

there is rapidly diminishing. For ten years last past they have scarcely used an interpreter at all in their legislature.

Now, as to the number of people. New Mexico has more than 300,000. Never since the beginning of our Government have 300,000 American citizens appealed in vain to the Congress of the United States for statehood save and except only in the case of New Mexico. It is a small electorate comparatively, but the National Legislature has never suffered because of the presence in it of representatives of small electorates.

Rhode Island, Delaware, Vermont, and New Hampshire, all small States in area and in population, have been referred to; but I need not stop to remind this body that they have ever been represented here and in the other House by men of high character and fine ability, men of probity, men of patriotism, men who have served their country well. And from the smallest of the States in the West have come men as to whom, no matter how much difference we might have in regard to public questions, there has never been any room to question their character or their ability or their worthiness to sit in this or any other legislative body in the country.

So it is, I apprehend, that if we are to follow precedent, as we should, we will admit New Mexico to separate statehood, as this amendment proposes, and I expect to see as a result of it a Commonwealth that will meet the just expectations of all who have the best interest of their country at heart.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. TELLER. Mr. President, I do not desire to prolong this debate, but the remarks of the senior Senator from Wisconsin [Mr. SPOONER] were such that in justice at least to a good many citizens in my own State I feel called upon to make some brief reply.

The Senator from Wisconsin does not know the people he has been talking about. He has not had the opportunity of knowing them as I and as the Senator from West Virginia who a few moments since addressed the Senate have had the opportunity. When I went to Colorado practically forty-four years ago there was a large population in the southern part of the State, or Territory, as it was then. It was an unorganized Territory of people who could not speak English, and for some years after we were in a Territorial organization we had an interpreter in the legislature. Years and years ago we dispensed with that interpreter.

Those people coming in contact with English-speaking people, which they had not been doing much previous to that time, acquired the English language; and while we have in every session of the legislature of Colorado more or less Spanish-speaking people, we do not need an interpreter.

Mr. President, the picture the Senator draws of these people is not a correct one. It is not pleasant to hear in this body those criticisms of our fellow-citizens, especially when we know they are not correct. I have said on this floor many times what I thought of the Spanish population of New Mexico, of Colorado, and of Arizona. In general intelligence they will compare with most of the rural districts of the United States. They have not, perhaps, the aggressive character of the Anglo-Saxon, possibly not the aggressive character of the New England Anglo-Saxon who gets out in our western country, who is a first-class citizen of the great territory you call "the West." But, Mr. President, they are a law-abiding people, a law-observing people, a law-respecting people. They are a church-going people; and if they do not belong to the religious faith I do, yet I want to say that for actual piety I believe they compare favorably with any other Christian denomination in any section of the country. They are truthful and honest. They have schools and they are ambitious to educate their children.

Nearly every great college in the East has its representative from either Arizona or New Mexico or both every year. From the State from which I come every great college in the East has had from half a dozen to thirty representatives, and New Mexico in the same line sends her sons and daughters to the East to be educated.

Mr. President, I am not going into any general discussion of this question. I know something about these people. I know something also about the character of the land. When anyone tells me here that the more than 100,000 square miles of New Mexico can never contain an agricultural population to exceed 500,000, or 750,000, I simply want to say he is ignorant of the capacity of that great Commonwealth that is to be. There is not a twentieth part of what can be cultivated yet in cultivation. Senators ask, Why have they not had more population? They have not had more population there because the people of the United States will never go to a Territory to make their homes unless in exceptional cases. We know how that was in Colorado. It was only after we had a State government that

the home seeker came to us. The miners, the speculators, and the adventurers went there, but it was when we had an established State government that the home seeker came.

New Mexico in ten years, from 1890 to 1900, more than doubled her population, and so did Arizona. Show me any other community that has done better than that. It has been done, too, with all the complaint that is made against going to a Territory. Yet thousands and tens of thousands of American home seekers have gone to that section of the country.

Mr. President, if every man in New Mexico were a Mexican, and if every man in it needed an interpreter, as the Government of the United States entered into a treaty with Mexico that she would give to those people an opportunity to come into the Union and become citizens of the United States, I would be in favor of her admission, as I have been at various times since 1876 on the floor of the Senate.

I know Senators here say that you can not raise this product and that product there. I remember very well when the civilization of this country stopped 50 miles west of the Missouri River. I can remember very well passing over the 650 miles between the Missouri River and the city of Denver without a solitary house after you had passed 50 miles out save that of the stagehouse. We were told then that central Kansas could not maintain a population; we were told then that western Kansas could not maintain a population; and we were told, above all things, that the State of Colorado could never maintain an agricultural population.

Mr. President, there is a region 75 miles long by 50 miles wide lying north of the city of Denver, and I venture to say there is not a more prosperous agricultural community in the whole United States. The land that we got for nothing, practically, is selling there—not to speculators, but to men who want to make homes on those lands—at from one hundred to two hundred dollars an acre, and the man who buys them at that price will make more money off his investment than he will if he buys in the State of Illinois at the same price—and I myself know something about Illinois, having lived in the best part of it for several years.

Now, Mr. President, when any Senator comes here and says that land will not produce and that there can be only so many people there he simply does not know what are the facts and he does not know what will be done. I know you can not prophesy very much about these things, and yet we who have seen this barren land made into a garden, and not in small areas but in great areas, know what can be done.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The Senator's time has expired.

Mr. STEWART. Mr. President, the expression of the junior Senator from Iowa [Mr. DOLLIVER] that civilization and mud go together, and that there is a necessary connection between them, may have been poetic, but it was not true. All of the great civilizations of ancient times of which we have any record were in desert countries. Egypt was once the granary of the world. Millions of acres of land which were then cultivated there are now abandoned to the desert. Efforts are being made to reclaim it. At first for many centuries, as far as history shows, agriculture was pursued only where irrigation was required. The vast empires of western Asia and Africa and portions of Europe once contained the civilization of all the world of which we have any record, and we are now examining them for the relics they furnish of former civilizations. The population was dense there. The cultivation of land by means of rainfall is comparatively modern.

But there is another respect in which the poetical allusion of my friend from Iowa is not true. Two-fifths of the entire area of the United States, leaving out Alaska, is desert, if you mean by desert land that will not produce without irrigation. The great States of Colorado, Montana, Idaho, Wyoming, and particularly Utah were once regarded as desert. I passed through the country when, as my friend from Colorado has said, civilization was limited to 50 miles west of the Missouri. It was said that it could go no farther. It was the common remark that the lands farther west were worthless. All this has proved false.

Look at the modern example furnished by India. There are vast regions of India, most densely populated and producing immense crops of all sorts, where there were deserts and where there are no running streams. Those people get the water from wells. Millions and tens of millions live and prosper by getting water from wells.

The capacity of man to overcome the desert and utilize arid countries has not been exhausted. It will go on. This despised country of New Mexico may not in the very distant future have a population of a million, it may be two million. The soil is there, the genial climate is there, and the water will be brought

there from various sources; it can be obtained from the streams and stored.

Arizona is destined to be one of the leading States of this Union. There is more land that can be watered there than in almost any of the Western States. The Colorado River is accessible, and it is immense. The Gila River has its sources where there is a vast forest of pine trees, probably the largest pine forest in the United States. That table-land abounds in springs, the snows in winter protect it, and it furnishes an immense amount of water. The lands it waters are the most fertile I ever saw. An acre of that land in its capacity of production is worth 10 acres in almost any other section of the United States. Its fruits are thirty days earlier than the fruits of California, and they are more abundant and better.

The amount of land that can be brought under cultivation there is still unknown. As water is put upon the land and vegetation is brought forth, the land is protected from the sun, the ground is saturated, and you can go on year after year with the same water and bring more land under cultivation. I have no doubt that New Mexico will be a prosperous State in time to come. I would be willing, if it was the desire of the two Territories, if it was the desire of the people there, to unite their fortunes, to vote for the bill as it stands; but I find that they are not in favor of it, that each Territory is opposed to it.

Mr. BEVERIDGE. They have a chance to vote.

Mr. STEWART. No practical chance.

Mr. BEVERIDGE. Yes.

Mr. STEWART. I understand the provision. But they desire to become States. You can not tell how far that may go. You can not tell what influence the misery of Territorial government may have upon them.

I have lived under a Territorial government, and I never want to do it again. It has more disadvantages than you can imagine to have all your officers sent from abroad. Men unacquainted with your resources, unacquainted with the country, go there, as it were, to despoil the people. I have had something to do with Territorial officers. I know how unfit they are in a great and rich mining country, as Nevada was. Although Nevada wanted to come in, it never would have voted to come into the Union, under any circumstances, if her Territorial government had been satisfactory. But a Territorial government is not satisfactory to a growing people and an ambitious people.

The people of these new States have great interests involved. They want to elect their own officers, particularly their own judges, and they ought to have the opportunity to do it at an early time. You can make no mistake in admitting both these Territories separately. They will both be great States; they have the resources. I have passed over them, and every time I was surprised at the new developments I found there, as everybody who passed over them has been surprised.

What a change in the picture between the Missouri River and the Pacific Ocean has occurred in the last forty years! Forty years ago it was regarded as a wilderness—a desert. Men came before the Committee on Railroads at one time when we were examining the value of the various routes across the continent where railroads might be built. There were four or five routes proposed. The committee of which I had charge was instructed to investigate the resources of the different routes, and called men before it of high character, such men as General Sherman, and they stated that the country would produce nothing. Nobody had any conception of such States as have grown up since—what are now the Dakotas, Montana, Idaho, eastern Washington, and eastern Oregon. It was claimed then by many intelligent men that there was nothing of value but a little strip along the Pacific Ocean, and men had to come to the Missouri River to find land fit for habitation. On the contrary, we find that this arid belt that was so condemned is producing some of the great States. Look at Colorado. Her vast mineral resources do not compare with her agricultural resources that are now being developed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CLARK of Montana. Mr. President, I will take up the time of the Senate for only a few minutes, but I could not remain silent and listen to the statements made by some of the Senators who are opposed to this amendment without adding my protest thereto, as they seem to be based upon ignorance of the facts or upon an assumption of conditions that do not exist.

The Senator from Iowa [Mr. DOLLIVER] has said that "civilization and mud go together," and that there can be no prosperity without rain. Does not the Senator know that the rainfall of this country is generally about equally distributed over all the country, and that in the winter time in the Northwestern

States the snows fall heavily and accumulate in the mountains, where they gradually melt in the summer time, thereby feeding the streams and making irrigation an easy problem?

In the southern country, embracing New Mexico and Arizona, they have a rainfall equally as great, but they usually have dry summers. They have scarcely any snow in the winter time to lie upon the mountains and thereby conserve the water over the dry season; so there is, as the Senator stated, an arid region in that southern country, and he entertains the hope that in the future the genius of man may in time work out this problem and solve it advantageously for the unfortunate people of that section of the country.

I wish to say to the Senator from Iowa that this question has already been thoroughly solved. The act which was passed in this Congress in 1902 providing for the reclamation of the arid lands of the West (as they are all, or a great portion of them at least, arid and semiarid) has put into motion the machinery whereby all of the arid lands of the West may be brought into requisition and made to flourish with fields of grain, gardens, and meadows. By the provisions of that act great areas in the United States have been set apart as forest reserves, thereby enabling the shelter of the timber on the mountains to protect the snow from melting away in the early summer. By the provisions of that act those waters are to be stored in sufficient quantities to be diverted on the adjacent lands.

So there are three principles involved in reclamation—the preservation of the forests, the storage of water, and the diversion of the same to the arable land. This great scheme is being worked out all over the western country. By the provisions of the act the fund which has been created from the proceeds of sales of public lands now amounts to nearly \$25,000,000. In the Territory of Arizona about \$4,000,000 of the fund is now being expended by the Government in the Salt River Valley near Phoenix. That will, when consummated, bring into cultivation about 150,000 acres of land. Likewise in New Mexico similar projects have been inaugurated. It required immense capital to carry out such enterprises and provide for the storage of water during torrential periods, and it is beyond the reach of the farmer of moderate means to do so. Happily the Government has come to his relief, and hundreds of thousands of acres of arable and fertile soil that lie in the beautiful valleys of New Mexico will, within a decade, be brought into cultivation and prepared for the maintenance of an additional large population.

The Senator from Wisconsin [Mr. SPOONER] depicted a doleful story of the conditions which exist in New Mexico. If we should depend upon what he stated to be true as to the people of the Territory, I would admit that they are not entitled to statehood. The Senator, however, seems to have but little knowledge of conditions in that Territory. There are more churches and fewer prisons than are usually found in a frontier Territory. The native Mexican people are industrious, law-abiding, and religious; they constitute about five-eighths of the population; their children go to schools, learn the English language, and are fast becoming Americanized. The other three-eighths are good enterprising Americans, who had the energy and ambition to push out upon the frontier and build up homes for themselves; and these alone constitute a sufficient population (about 175,000) to warrant their enjoying the privileges of statehood.

Mr. President, an attempt has been made to belittle the resources of that Territory. New Mexico contains very extensive areas of land which are underlaid with valuable deposits of coal. What made the wealth and prosperity of the grand old State of Pennsylvania but its magnificent mines of iron and coal? When the coal mines of New Mexico are developed and more railroads are built this industry alone will give employment to several hundred thousand people. To-day New Mexico is supplying the fuel for the railroads, mines, and smelters of Arizona, also for parts of Texas and old Mexico, and it is shipping large quantities of coal to California for domestic purposes. Moreover, it has extensive mines of lead, silver, and gold; and sheep and cattle raising are great and prosperous industries. The Territory is rich in all the elements of wealth, and it requires no stretch of the imagination as to the future possibilities to demonstrate that it is to-day worthy to be admitted into the sisterhood of States.

Mr. BURROWS. Mr. President, I feel constrained to say just a word in relation to this proposition on a different line from the discussion which has taken place up to this time.

I can not vote for the admission of New Mexico, and my reason for voting against it is that I think it would be a dangerous thing to do. It has been my misfortune to be charged by this Senate with an investigation which has been quite far-reaching, and what I may say to-day in the moment I want it understood that it in no manner reflects, or is intended to re-

fect, or to give any opinion upon the question to which I refer. But I can not vote for the admission of New Mexico because it would take that Territory out from under the jurisdiction of the United States and lift the hand of the United States off from that Territory, that is now being used to arrest the course of crime and for the purpose of bringing those who are violating the laws of the United States to justice.

The bill itself recognizes the existence of that crime, wherein it is provided that polygamous or plural marriages are forever prohibited. In view of the contention of the Senator from Texas [Mr. BAILEY] and others that such a provision is brutum fulmen, which is undoubtedly true, and that the moment the Territory is admitted as a State it becomes a sovereign, and is at once at liberty to amend its constitution so as to nullify those provisions, we are brought face to face with a condition of things that ought to alarm this Senate and ought to alarm the country.

Mr. BAILEY. Will the Senator from Michigan permit me to ask him a question?

Mr. BURROWS. Certainly.

Mr. BAILEY. Would the argument the Senator from Michigan is advancing apply with as much force against the admission of the two Territories as one State as it would against the admission of the two Territories as separate States?

Mr. BURROWS. Precisely.

Mr. BAILEY. And the Senator, then, intends to vote against the admission of the two Territories as one State?

Mr. BURROWS. I intend to vote against the admission of New Mexico; I shall vote against the admission of Arizona as a separate State; and I shall vote against the admission of the two united as one State for the reasons I am about to assign. The condition of things in Arizona is much worse than it is in New Mexico, and the conditions in both of those Territories constrain me from voting to admit either of them or both of them.

To-day polygamy exists in New Mexico. It has been declared that it is the breeding ground of polygamy; and I happen to be in possession of information, which I can not make public for reasons which the Senate will readily understand, that the condition of things in New Mexico in this regard is startling. Of course, I am not going to discuss the question of polygamy—a crime so monstrous—but we are confronted now with the proposition to admit a Territory into the Union as a State with the crime, as confessedly declared in this bill, existing in the Territory—to admit it into the Union, when the power of the National Government over it will cease, and the State thus admitted can manage its own affairs as an independent sovereign. I only want to call attention to it and to say to the Senate that, in my judgment, it will be a fatal mistake to take this step, and the country will rue it in the not distant future.

In my effort to steer clear from other questions, I care to say but little about it now, but I hold in my hand evidence of the existence of this crime which, for reasons of a public nature, I can not now disclose. If this Territory is not admitted, these violators of public law will be brought to justice, and I vote against its admission because, in my judgment, neither New Mexico nor Arizona should be admitted as a State, separately or together, until they have washed their hands of this abomination and until they are ready to obey the laws of the United States.

Mr. President, this is all I care to say about this subject—simply assigning the reasons why I can not vote for the bill.

Mr. DUBOIS. Mr. President, I have some amendments pending which I intend to offer to the joint statehood bill on the subject just discussed by the Senator from Michigan [Mr. BURROWS].

In view of the disclosures which have been made before a committee of this body, I myself am satisfied that the Congress of the United States will enact such legislation as will stop the practices which have been disclosed to the country by the testimony of the Mormon hierarchy.

I shall vote for the admission of New Mexico as a separate State, having full confidence that Congress will not only regulate affairs there, but that it will regulate affairs in Utah, Idaho, and Wyoming so far as relates to this question and so far as it can constitutionally do so. I shall vote against the admission of New Mexico and Arizona as one State, because there is, in my judgment, more danger in regard to polygamy and polygamous cohabitation in a larger State than in a State composed of New Mexico alone. That is so because there is now a larger nucleus of these people in Arizona, and it is a country to which they will be attracted. They will have the balance of power in a State made up of Arizona and New Mexico, and with the balance of power wielded by one man, who is the head of this organization and who can vote its members as he sees fit, it only requires the balance of power to govern prac-

tically the State on the lines in which we are so much interested.

I think the least danger is to admit New Mexico as a separate State and to stop there until after Congress has done legislating with this question which now confronts the Senate and which must be met in the near future.

As I have said, I have some amendments pending which I shall offer at the proper time. I trust the Senate will adopt them, or, if not, point out in the debate wherein they are faulty. At any rate, these amendments will direct the attention of the Senate along these lines.

As I said a while ago, this investigation has been of such a nature and the country is now aroused to such an extent that Congress must act, and act in such a way as to curb this institution and to stop polygamy and its kindred and attendant evils; but, believing that the safest and best course is to admit New Mexico alone, I shall vote for her admission. If that proposition fails, I shall vote against joining the two Territories.

The PRESIDENT pro tempore. The question is on the amendment.

Mr. CARMACK. What is the pending amendment?

The PRESIDENT pro tempore. The amendment offered by the Senator from California [Mr. BARD] providing for separate statehood for New Mexico.

Mr. CARMACK. I desire to offer an amendment to the amendment. On page 4, line 6, after the word "provide," I move to strike out everything down to and including the word "State," in line 7, and to insert in lieu thereof "in said constitution."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 4, section 21, line 6, of the amendment, after the word "provide," it is proposed to strike out "by ordinance irrevocable without the consent of the United States and the people of said State," and to insert "in said constitution."

Mr. PLATT of Connecticut. How will the clause then read?

The PRESIDENT pro tempore. The Secretary will read it as it is proposed to be amended.

The Secretary read as follows:

And said convention shall provide in said constitution, first, that perfect toleration of religious sentiment, etc.

Mr. BEVERIDGE. Instead of "ordinance irrevocable" it substitutes the word "constitution."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Tennessee [Mr. CARMACK] to the amendment of the Senator from California [Mr. BARD].

Mr. McCOMAS. Mr. President, the Senator from Michigan [Mr. BURROWS] has discussed the provision on page 25 of this bill prohibiting polygamous marriages. The language, if it is intended to be effective, is too mild to serve such purpose.

It seems to me, Mr. President, that it will be very difficult to put into the ordinance required by the act any provision which might not, by and by, at the will of the people of a sovereign State, be nullified or repealed. But I hope that before this bill shall have finally passed, if it shall pass, a stronger and better provision may be inserted in that place.

The nearness of Arizona and New Mexico to Utah bring to the minds of the Senate and the American people the very serious consideration whether Mormon problems in Utah, now confronting the whole country, may not overlap the boundaries of that State and present themselves in new form in these old Territories to be made a new State. If I believed that in the future, by growth of population and public sentiment, many things which have recently been brought to the attention of the committee, already referred to by its chairman, the Senator from Michigan [Mr. BURROWS], and the Senator from Idaho [Mr. DUBOIS], I would have very serious hesitation about voting for admitting one or both of these Territories; but if the danger must be met, and if the problem is to be minimized, it will be minimized better by adding the American population of Arizona to the population now in New Mexico.

The population of the combined State will present enough of American sentiment to make it most likely that effective prohibition of polygamous or plural marriages will be made by the State. Mr. President, I am not now indicating any opinion on my part as to the result of the investigation to which the Senators from Michigan and Idaho have referred or any opinions I have or that the committee may have, and I am not now indicating my own; but apart from the opinions of Senators in respect to the situations investigated in Utah, it is wise to put in the bill far more effective provisions in regard to this matter than there are here now.

Senators will say they will not be effective, and I am very much inclined to think that a sovereign State can not certainly

be deprived of the exercise of the police power for years to come, as we have tried here to-day to provide. I voted for the amendment of the Senator from New Hampshire, though distrusting the legal proposition, believing that for twenty-one years the people of the new State of Oklahoma, when combined with Indian Territory, will probably be willing to support the provision in respect of temperance in the Indian Territory until such time as the Indian race has faded away from the new State as quietly but as surely as the last of the evening clouds are now fading in the evening sky.

The Indian is a transient there and the provision will be effective perhaps as long as he remains. Not so, Mr. President, in respect of the control or the spread of a sect, which controls politics too often, which might, unchallenged and unhampered, work injury to a new commonwealth and bring a condition which the General Government can not probably reach in another new State any more than it can in Utah.

The combination of Oklahoma and Indian Territory is a combination which does not make me hesitate, as it makes some Senators. I was, as a Member of the House of Representatives, one of the parties guilty by my vote of making that hideous succession of angularities in the line which divides Oklahoma and Indian Territory. Mr. President, I have never looked since upon a map of my country and had my eyes light upon that jagged, forked line between Indian Territory and Oklahoma but that I felt not only were the Territories out of joint, but the map of my country was broken like pieces of glass, and it ought to be mended.

This bill gives the opportunity to reunite the territory I helped separate.

I recall the splendid population in that country, part of which I have seen, destined to be one of the greatest States of the Union, and when justice has been done to the fading aboriginal race the new American people will make Oklahoma one of the foremost agricultural States of the Union, and I, who helped to perpetuate the monstrosity by which the bad and unpleasing territorial line of separation was made, am glad of the opportunity now, after long years, by my vote to help wipe it out and help to make one State of that country homogeneous in people, barring the Indians, symmetrical in form, and unlimited in the prospect of a great future.

It seems to me from this discussion that a mistake was made in dividing Arizona and New Mexico fifty years ago. This error has not kept the people out of statehood longer than Alaska and Porto Rico may wait. The praises of a Spanish population will encourage Porto Rico, not only—

The PRESIDENT pro tempore. The time of the Senator from Maryland has expired.

Mr. CARMACK. Mr. President, I have been asked to make a little statement in regard to this amendment.

It proposes simply to strike out the words "and said convention shall provide by ordinance irrevocable, without the consent of the United States and the people of said State," and substitutes simply the words "in said constitution;" providing that it shall do it by a constitutional provision.

It seems to me, Mr. President, that such language as is used here has no business in the act. We are not legislating for the Medes and Persians, but providing for a State of the American Union, and I do not believe we can provide for an irrevocable law—that we can compel a State to enact a law which it will not have the power to repeal without the consent of the United States. This puts us in the attitude of making a treaty between the United States and one of the States of the Union, by which that State agrees forever to maintain upon its statute book a certain law unless it shall come to an agreement with the Government of the United States for the repeal of that law.

I do not believe you can place any limitation upon the power of a State, after it once comes into the Union, to modify its own laws, or any limitation, whatever its effect, except such limitations as are imposed by the Constitution of the United States and by its own constitution.

Mr. LODGE. May I ask the Senator from Tennessee a question?

Mr. CARMACK. Certainly.

Mr. LODGE. I understand that this amendment removes entirely the necessity of getting the consent of the United States.

Mr. CARMACK. Yes, sir; and merely provides that such provision shall be in the constitution.

Mr. LODGE. And the people of the State may change it themselves at any time?

Mr. CARMACK. Of course.

Mr. LODGE. Certainly. I only wanted to make sure that I understood the intention of the Senator.

Mr. CARMACK. I think they could do it anyhow by changing their constitution. I think the language here would be ab-

solutely null. I do not believe we could compel a State to pass an irrevocable law—a law which it would not have the power to change without the consent of Congress.

Mr. LODGE. The Senator's amendment strikes out the words "without the consent of the United States."

Mr. CARMACK. Yes. It strikes out all after the word "provide" down to and including the word "State" in line 7, and simply substitutes "in said constitution," so as to read: "That said convention shall provide in said constitution, first," and so on.

Mr. BAILEY. Mr. President, I hope the amendment of the Senator from Tennessee will be adopted, and I do agree with his statement that Congress has no right to impose that kind of a limitation upon the power of a State. But the trouble is we are seeking to require the State to impose that kind of a limitation on itself. I believe it ought not to be in the bill at all, but if any such exaction is to be in it, it ought to be in as the Senator from Tennessee desires.

Mr. LODGE. Mr. President, of course if we change the words as proposed by the Senator from Tennessee, we leave it to the State to alter these conditions at any time. It is mere form to put in these conditions. As I understand it, we can impose on these States any conditions we choose. The conditions as I read them in the bill seem to be all proper, and this is practically giving them up. So it seems to me a very serious amendment, more serious than I at first understood. The very amendment that the Senate put in to-day by a large majority, in regard to the sale of liquor in the Territories, would pass away at once.

Mr. CARMACK. The same amendment has been adopted in reference to that subject.

Mr. LODGE. This is covered by that original clause, as I understand, as are all these conditions. The sale of liquor is prohibited for a limited period. But they would not be obliged to keep it, even for that period, if this is changed. So it seems to me this is a very vital change in the bill.

Mr. CARMACK. This, as it stands, requires that such a provision shall be put into the constitution.

The PRESIDENT pro tempore. One speech by each Senator on a given amendment is all that the rule allows.

Mr. LODGE. I had not quite finished.

Mr. CARMACK. I thought the Senator from Massachusetts had the floor.

Mr. LODGE. I had not exhausted my time. I have only a few words more to say.

The PRESIDENT pro tempore. The Chair understood that the Senator from Tennessee undertook to take the floor in his own right.

Mr. LODGE. As it is proposed to amend the amendment, it will simply require the State to put such a limitation in the constitution, but State constitutions are easily changed and amended, and it seems to me for all practical purposes it is abandoning the very conditions we are desirous of imposing.

Mr. PLATT of Connecticut. Mr. President, I should prefer that the Senate should not make this amendment. I wish the Clerk would read the amendment as it now stands, and as it will stand if amended.

The SECRETARY. Beginning in line 1, on page 4, the clause is as follows:

The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—
First. That perfect toleration of religious sentiment, etc.

It is proposed to strike out the words—

By ordinance irrevocable without the consent of the United States and the people of said State—

and insert "in said constitution;" so that if amended the last paragraph would read:

And said convention shall provide in said constitution, first, etc.

Mr. PLATT of Connecticut. Mr. President, I may be mistaken about it, and if so what I am going to say does not apply. But I understand that it covers the question of providing against polygamous marriages, and that being so, I have a single word to say.

I do not think we ought to stand here splitting hairs and running fine distinctions about our rights and powers when we are admitting new States in that section of the country where it is possible that polygamous marriages may be veiled.

I have no question about the power, when admitting a State, to impose upon it any conditions which we think ought to be imposed upon the new State. I have no trouble about making those conditions perpetual with reference to any matter.

Mr. CARMACK. Will the Senator from Connecticut yield for a question?

Mr. PLATT of Connecticut. Certainly.

Mr. CARMACK. Suppose a State should revoke such an ordinance. What would be done?

Mr. PLATT of Connecticut. I want to make it so that a State can not revoke the ordinance.

Mr. CARMACK. Suppose it revokes it, what would be the action of the United States Government?

Mr. PLATT of Connecticut. That is a very serious question. I have not thought there was any remedy in such a case. I do not think we can exclude a State from the Union after we have once admitted it. I do not think we could, after having once admitted it, deny it representation for a breach of the conditions on which it was admitted. But nevertheless I think we have a right to impose the conditions, and I think we ought, especially in this matter, to impose them.

The practice of polygamy is so inimical to our institutions, to our future as a Government, that I think we have a perfect right to say when we admit a State that it must forever provide against such practices; and it does not answer the question to say that if we do make such provision and only admit a State upon such conditions the State may after all violate its solemn promise, and that we have no remedy. We had better put it in such shape that there can be no mistake about what Congress meant when it admitted the State.

If this amendment is adopted it seems to me it will be almost equivalent to saying to the new State, "You may not keep this compact," because we have here the words "an ordinance irrevocable," and this amendment proposes to strike out these words and simply say that the State must so provide in its constitution; and the new State, if it wanted to violate the agreement or the conditions upon which it came in, would point to the action here in Congress and say, "At one time there was a provision in the bill that by an ordinance irrevocable the State should do or should not do this thing, but Congress did not propose to bind the State forever and, therefore, it struck it out and simply said it must put it in its constitution, knowing full well and admitting in the debate the State could change its new constitution." I like the old language very much better than the new.

Mr. McCUMBER. Mr. President, in either instance it seems to me we leave the whole matter to the honor and integrity of the State. For my part, I can see no real objections to inserting in this bill that it shall be made a part of the constitution of the new State. That has been done in every bill which has admitted new States into the Union, so far as I know, and I would ask the Senator who has last spoken if in a single instance any State which has ever been admitted and which was admitted under a requirement that its constitution should contain certain provisions has broken faith with the Government and changed the constitution or that portion of the constitution required by the enabling act?

I think not, and I believe, and sincerely believe, that if the new State is admitted under an implied contract with the Government that it will provide in its constitution the things which have been enumerated, the State will never break faith with that compact; and if I thought it would, it seems to me I would regard it as my moral duty to conclude that the Territory was unfit to be made a State. It seems to me we can safely leave it with the State the same as we have done in all other instances.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. CARMACK] to the amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from California [Mr. BARD].

Mr. GORMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary called the roll.

Mr. WETMORE. My colleague [Mr. ALDRICH], if present, would vote "nay" on this question.

The result was announced—yeas 42, nays 40, as follows:

YEAS—42.

Alger	Culberson	Kearns	Overman
Bacon	Daniel	Latimer	Patterson
Bailey	Dubois	McCreary	Penrose
Bard	Elkins	McCumber	Perkins
Bate	Foraker	McEnery	Simmons
Berry	Foster, La.	McLaurin	Stewart
Blackburn	Gallinger	Mallory	Stone
Carmack	Gibson	Martin	Taliaferro
Clark, Mont.	Gorman	Money	Teller
Clay	Hansbrough	Morgan	
Cockrell	Heyburn	Newlands	

NAYS—40.

Allee	Cullom	Fulton	Nelson
Allison	Depew	Gamble	Platt, Conn.
Ankeny	Dick	Hale	Platt, N. Y.
Ball	Dietrich	Hopkins	Proctor
Beveridge	Dillingham	Kean	Quarles
Burnham	Dolliver	Kittredge	Scott
Burrows	Dryden	Lodge	Smoot
Clapp	Fairbanks	Long	Spooner
Clark, Wyo.	Foster, Wash.	McComas	Warren
Clarke, Ark.	Frye	Millard	Wetmore

NOT VOTING—8.

Aldrich	Crane	Knox	Pettus
Burton	Hawley	Mitchell	Tillman

So Mr. BARD's amendment was agreed to.

Mr. McCUMBER. I offer an amendment to the bill by striking out all of the bill from line 3, page 1, to line 11 on page 22, inclusive, and inserting in lieu thereof what I send to the Chair.

The PRESIDENT pro tempore. Does the Senator desire the proposed amendment to be read, which simply strikes out a large number of sections of the bill which each Senator has before him?

Mr. CULLOM. What is the substitute?

Mr. ALLISON. It strikes out and substitutes.

The PRESIDENT pro tempore. It substitutes what the Senator sends to the desk.

Mr. CULLOM. Let us have that read.

Mr. ALLISON. It is a proposition, I understand, admitting the present Territory of Oklahoma.

Mr. McCUMBER. And excluding the Indian Territory.

Mr. ALLISON. And excluding the Indian Territory.

The PRESIDENT pro tempore. As a matter of course, the substitute will be read.

Mr. TELLER. Let it be read.

The SECRETARY. Strike out all after the enacting clause to the amendment just adopted, inserted on page 22, after line 11, and in lieu thereof insert:

That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma, as at present described, may adopt a constitution and become the State of Oklahoma, as hereinafter provided.

Sec. 2. That all male persons over the age of 21 years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Territory of Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be fifty-five in number, who shall be elected by the people of the Territory of Oklahoma; and the governor, the chief justice, and the secretary of said Territory shall apportion the Territory of Oklahoma into fifty-five districts, as nearly equal in population as may be, which apportionment shall include the Osage Indian Reservation, and one delegate shall be elected from each of said districts; and shall by proclamation order an election of the delegates aforesaid in said proposed State at a time designated by them within six months after the approval of this act, which proclamation shall be issued at least sixty days prior to the time of holding said election of delegates, and the election for delegates in the Territory of Oklahoma shall be conducted, the returns made, the result ascertained, and the certificates of all persons elected to such convention issued in the same manner as is prescribed by the laws of said Territory regulating elections for Delegates to Congress.

That the capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma, and until changed by the constitution or legislative enactment of said State of Oklahoma.

Sec. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Oklahoma Territory on the fifth Tuesday after their election, excluding the day of election in case such day shall be Tuesday, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall, and is hereby authorized to, form a constitution and State government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States the same shall be and remain subject to the jurisdiction, disposal, and control of the United States; that land belonging to citizens of the United States residing without the limits of said State shall never be taxed at a higher rate than the land belonging to residents thereof; that no taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

Third. That the debts and liabilities of said Territory of Oklahoma shall be assumed and paid by said State.

Fourth. That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and said schools shall always be conducted in English: *Provided*, That this act shall not preclude the teaching of other languages in said public schools.

Fifth. That said State shall never enact any law restricting or

abridging the right of suffrage on account of race, color, or previous condition of servitude.

Sec. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this act the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection at an election to be held at a time fixed in said ordinance, at which election the qualified voters for said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The returns of said election shall be made to the secretary of the Territory of Oklahoma, who, with the chief justice thereof, shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the governor of Oklahoma Territory shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if the provisions in this act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of votes cast thereon and a copy of said constitution, articles, propositions, and ordinances from said commission, to issue his proclamation announcing the result of said election; and thereupon the proposed State of Oklahoma shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original States, from and after the 4th day of March, 1906. The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election, shall be forwarded and turned over by the secretary of the Territory of Oklahoma to the State authorities of said State.

Sec. 5. That the sum of \$75,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, for defraying the expenses of said election and convention, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature of the Territory of Oklahoma.

Sec. 6. That until the next general census, or until otherwise provided by law, the said State of Oklahoma shall be entitled to three Representatives in the House of Representatives of the United States, to be elected from said State at large, until said State shall have been divided into legislative districts by the legislature thereof.

And the said Representatives to the Fifty-ninth Congress together with the governor and other officers provided for in said constitution, shall be elected on the same day of the election for the ratification or rejection of the constitution; and until said officers are elected and qualified under the provisions of such constitution and the said State is admitted into the Union, the Territorial officers of Oklahoma Territory shall continue to discharge the duties of their respective offices in said Territory.

Sec. 7. That upon the admission of the State into the Union sections numbered 16 and 36, in every township in Oklahoma Territory, and all indemnity lands heretofore selected in lieu thereof, are hereby granted to the State for the use and benefit of the common schools: *Provided*, That sections 16 and 36 embraced in permanent reservations for national purposes shall not at any time be subject to the grant nor the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character, nor shall land owned by Indian tribes or individual members of any tribe be subjected to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain: *Provided*, That there is sufficient unalienated public land within said State to cover this grant: *And provided*, That in case any of the lands herein granted to the State of Oklahoma have heretofore been confirmed to the Territory of Oklahoma for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

Sec. 8. That section 13 in the Cherokee Outlet, the Tonkawa Indian Reservation, and the Pawnee Indian Reservation, reserved by the President of the United States by proclamation issued August 19, 1893, opening to settlement the said lands, and by any act or acts of Congress since said date, and section 13 in all other lands which may be opened to settlement in the Territory of Oklahoma, and all lands heretofore settled in lieu thereof, is hereby reserved and granted to said State for the use and benefit of the University of Oklahoma, the University Preparatory School, the normal schools, and the Agricultural and Mechanical College, and the Colored Agricultural Normal University of said State, the same to be disposed of as the legislature of said State may prescribe: *Provided*, That the said lands so reserved or the proceeds of the sale thereof shall be safely kept or invested and held by said State, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university.

That section 33, and all lands heretofore selected in lieu thereof, heretofore reserved under said proclamation, and acts for charitable and penal institutions and public buildings, shall be apportioned and disposed of as the legislature of said State may prescribe.

Sec. 9. That said sections 16 and 36, and lands taken in lieu thereof, herein granted for the support of the common schools, may be appraised and sold at public sale in 160-acre tracts, or less, under such rules and regulations as the legislature of the said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, the proceeds to continue a permanent school fund, the interest of which only shall be expended in the support of such schools. But said lands may, under such regulations as the legislature may prescribe, be leased for periods not to exceed five years; and such lands shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

Sec. 10. That said sections 13 and 33, aforesaid, if sold, may be appraised and sold at public sale, in 160-acre tracts, or less, under such rules and regulations as the legislature of said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, but the same may be leased for periods of not more than five years, under such rules and regulations as the legislature shall prescribe, and shall not be subject to homestead entry or any other entry under the land laws of the United States, whether sur-

vayed or unsurveyed, but shall be reserved for designated purposes only and until such time as the legislature shall prescribe the same shall be leased under existing rules: *Provided*, That in case of the sale of said lands under the provisions of sections 9 and 10 of this act the leaseholder does not become the purchaser, all permanent improvements shall be appraised at their fair and reasonable value, the lessee to receive the amount of said appraisement, under such rules and regulations as the legislature may prescribe.

SEC. 11. That an amount equal to 5 per cent of the proceeds of the sales of public lands lying within said State shall be paid to the said State, to be used as a permanent fund, the interest only of which shall be expended for the support of the common schools within said State.

SEC. 12. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to said State, and in lieu of any claim or demand of the State of Oklahoma under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands, which grant it is hereby declared is not extended to said State of Oklahoma, the following grant of land is hereby made to said State from public lands of the United States within said State, for the purposes indicated, namely: For the benefit of the Oklahoma University, 200,000 acres; for the benefit of the University Preparatory School, 150,000 acres; for the benefit of the Agricultural and Mechanical College, 150,000 acres; for the benefit of the Colored Agricultural and Normal University, 100,000 acres; for the benefit of normal schools, 300,000 acres.

SEC. 14. That said State when admitted as aforesaid shall constitute one judicial district, to be known as the district of Oklahoma, and the circuit and district courts for the district shall be held one term at Guthrie and one term at Oklahoma City, alternately, each year, for the time being. And the said district shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. There shall be appointed a clerk for said district, who shall keep his office at Guthrie for the time being. The regular term of said courts shall be held at the places designated in this act on the first Monday in January and the first Monday in June in each year, and only one grand jury and one petit jury shall be summoned in each of said circuit and district courts. The circuit and district courts of said district and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerk of each of the circuit and district courts of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of Oklahoma; and that the laws and procedure of the present Territory of Oklahoma, as far as applicable, shall extend over and apply to said State until changed by the legislature thereof.

SEC. 15. That all cases of appeals or writs of error heretofore prosecuted and now pending in the Supreme Court of the United States or the circuit court of appeals for the eighth circuit, upon any record of the supreme courts of said Territory, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said Supreme Court of the United States and the said circuit court of appeals. And the mandate of execution or other proceedings shall be directed by the Supreme Court of the United States or said circuit court of appeals to the circuit or district courts hereby established within the said State succeeding the Territory from which such record is or may be pending, or to the supreme court of said State or other State court therein established, as the nature of the case may require.

SEC. 16. That the said circuit and district courts and the courts of said State shall, respectively, be the successors of the courts of Oklahoma Territory as to all such cases arising within the limits of the Territory described in the first section of this act, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme courts of said Territory or the United States courts for said Territory in any case arising within the limits of said State prior to admission the parties to such judgments or decrees shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals for the eighth circuit as they shall have had by law prior to the admission of said State into the Union.

SEC. 17. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of said Territory at the time of admission as a State and arising within the limits of such State whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts each, respectively, shall be the successors of said supreme and district courts of said Territory and in respect to all other cases and matters pending in the supreme or district courts of said Territory or in the United States courts for said Territory at the time of the admission of such State, arising within the limits of said proposed State, the courts of said State shall, respectively, be the successors of said supreme and district Territorial courts and the United States courts in said Territory. And all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with there in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of said State shall be pending, in any Territorial courts of said Territory or the United States courts for said Territory shall abate by the admission of said State into the Union; but the same shall be transferred and proceeded with in the proper United States circuit, district, or other State court, as the case may be: *Provided*, However, That in all civil actions, causes, and proceedings in which the United States is not a party transfer shall not be made to the circuit and district courts of the United States, except it be a case which, under existing laws, might be transferred from a State court to the courts of the United States, and upon written request of one of the parties to such action or proceeding, filed in the proper court, as now by law required, and in the absence of such request such cases shall be proceeded with in the proper State court.

SEC. 18. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including mem-

bers of the legislature and three Representatives to Congress, and may attach the Osage Indian Reservation to counties contiguous or constitute the same a separate county and designate the county seat thereof, and shall provide rules and regulations and define the manner of conducting the first election for officers in said counties. Such State government shall remain in abeyance until the State shall be admitted into the Union and the election for State officers held, as provided for in this act. The State legislature, when organized, shall elect two Senators of the United States in the manner now prescribed by the laws of the United States, and the governor and secretary of said State shall certify the election of the Senators and Representatives in the manner required by law; and said Senators and Representatives shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States. And the officers of the State government formed in pursuance of said constitution as provided by said constitutional convention shall proceed to exercise all the functions of such State officers; and all laws of said Territory in force therein at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the constitution of the State, and the laws of the United States not locally inapplicable shall have the same force and effect within said State as elsewhere within the United States.

Mr. McCUMBER. Mr. President, I think it proper to explain very briefly what this amendment does. That portion which is stricken out from page 1 down to line 12 on page 22 of the original bill provides for the admission of Oklahoma and Indian Territory into the Union as one State. By this amendment that is all stricken out, and in lieu thereof we have the provision for the admission of Oklahoma as a single State, leaving Indian Territory off. There has been no change from the original bill as it was drafted by the Committee on Territories with reference to anything relative to Oklahoma Territory distinct from Indian Territory. The only amendment that has necessarily been made is to this extent: The combination of the two Territories requires five Representatives. Under the population, as indicated by the Senator from Minnesota [Mr. NELSON], Oklahoma would be entitled to three Representatives. Therefore the amendment provides for three. It provides for only one district court; and the other particular amendment I will state. The original bill, of course, provided for a donation of \$5,000,000 for school purposes. This was due to the fact that Indian Territory has no school lands. I strike out that \$5,000,000 donation, as we do not deal with Indian Territory.

Another provision is stricken out, that which provides that the seat of government shall for a period of five years remain in a particular place, and it allows the constitutional convention or legislature to locate the capital. In other respects I believe there have been no changes whatever.

Now, Mr. President, I want to say just one word about Indian Territory as connected with Oklahoma and the effect of the combination of the two Territories. It is admitted that there are about 700,000 people in Oklahoma and about 500,000 in Indian Territory, in all about 1,200,000. Under a statute of the United States passed, I think, in 1901 we provided for the allotment of the Indian lands and provided for the most part that the allotments should be held for twenty-one years. All of their other allotments may be disposed of, as I now remember, at the expiration of five years. The five years will be up in a little more than a year's time. The result of making a State now out of Indian Territory will be that we immediately surrender control over the entire Indian population. That population to-day consists of some 50,000 or 75,000 Indians. Therefore, they will become citizens of the new State, and as such citizens of the new State we shall have no control over their property, because the State will have the exclusive control.

The Senator from Texas [Mr. BAILEY] stated very aptly that we signed the death warrant for these Indians when we allowed the white settlers to come in. Mr. President, if we did sign the death warrant we have given them reprieves from day to day until the present time. The result of this bill will be to sign the execution, because immediately the right to sell these lands has inured and the time has arrived, then the Indian will always sell his property and the children of the present Indians will have no property left. As a result, in twenty-five years we will have an army of Indian paupers on our hands to be taken care of by the Government. For that reason alone it seems to me that it should be changed.

THE PRESIDENT pro tempore. The Senator's time has expired.

Mr. BEVERIDGE. Mr. President, this amendment is a blow at a proposition upon which all parties, all creeds, and all peoples in the two Territories in question are as one. Not only that, Mr. President, it is an amendment which strikes at the convictions of two-thirds of the Senate, if the people voted upon this proposition alone. The people of both the Indian Territory and of Oklahoma have expressed themselves in both political conventions. Seven hundred thousand people in one, perhaps 600,000 in another, are asking at the hands of this Congress a

union; they are asking that they shall be made one State, as they were originally one Territory.

Mr. President, that people are one in industry; they are one in religious organization; they are one in political organization of both parties. The wholesale association of the Territory is a unit. The religious organization of the two Territories is a unit. The railroads of the Territories are built as if it was one State. They are asking Congress not for separate statehood; they have taken that question up, they have debated it upon every stump in both Territories, and they have given their verdict upon it. Not till this hour has it been supposed that any person would attempt to deny these people their rightful meed and what they have been asking of Congress for the last two years.

Mr. President, why should not these people be admitted as they are now requesting us to admit them? In numbers they are abundant. In area they are generous—about the same size as the neighboring Western States, about the same size as Kansas.

Can it be, Mr. President, that this is merely a method of killing the entire bill? Can it be, Mr. President, that this is a method (because the Senator well knows that will be its effect) of denying to the people of either of these Territories statehood for the next year or two years, or perhaps indefinitely?

Mr. President, this measure has been taken up not only in the Territories, but in both Houses of Congress. In the other House of Congress, after elaborate debate, it had a respectable majority, and upon this side of the National Legislature it had almost unanimous support until it became involved with the other question of Arizona and New Mexico.

Mr. President, it is a question of the denial of rights to a people who are here praying that they may be given their rights. In the Indian Territory the conditions are pitiable. Petitions, telegrams, letters have poured in upon this Congress, upon every member of the Senate, upon everybody who has had anything to do with this legislation. Six hundred thousand white people, of our blood, our language, our faith, American citizens as good, as noble, as true as anybody in any portion of this country are in the Indian Territory to-day without any provision for schools with which they can educate their children, without public roads, without insane asylums where their unfortunates may be cared for. Is this condition to continue, Mr. President? Yet that is what the amendment of the Senator from North Dakota proposes. I do not believe that it will receive many votes on either side of this Chamber.

This is a question which transcends all political considerations. It rises above all simple differences; it rises above every question that has been discussed in this debate; and it goes not only to the convenience, but to the sacred rights of American citizens, who are praying that this Congress will give it to them.

How long shall be delayed these common necessities of civilization to 600,000 people who have none, for the Indian Territory has not Territorial government? Neither could they have any Territorial government at this session of Congress. Shall we for another year, for another two years, for another three years, indefinitely, say to them: "You must live as you have lived, with your insane uncared for, with no schools for your children, with none of the conveniences of modern life, or of any life which free and equal laws would give to you." Shall we say to them: "You must remain there among 80,000 Indians without any kind of public rule?" I do not think, Mr. President, that such a proposition as that, upon high moral grounds, which search the souls of men, ought to receive any votes upon either side of this Chamber.

No, Mr. President, the bill is a good proposition—equitable, fair, reasonable, and just in every part of its provisions. It is for the reunion of two Territories into one great State about the size of its neighboring State of Kansas, or the State of Nebraska, and much less than the State of the Senator from North Dakota; and in one part of that Territory the people to-night, suffering as they are, are praying this Congress for relief; and I hope we will not deny it to them.

Mr. BAILEY. Mr. President, a word only. I intend to vote for the amendment of the Senator from North Dakota [Mr. McCUMBER] because I believe both of these Territories ought to be made States. If the amendment proposed by the Senator from North Dakota shall be adopted, I intend immediately thereafter to offer an amendment providing for the admission of the Indian Territory as a separate and independent State. If the Senator's amendment shall be voted down, then, of course, it will be a waste of the Senate's time for me to propose an amendment to make a separate and independent State of the Indian Territory.

But while I believe these two Territories ought to be ad-

mitted into the Union as separate States, I would infinitely prefer to admit them as one State rather than to leave the Indian Territory, with its six or seven hundred thousand people, without the benefits of statehood.

Senators who have never resided in or near a Territory can have but a faint conception of the eagerness with which the people there hail any proposition which will relieve them from the vassalage of Territorial administration and confer upon them the right and power to govern themselves. This is true of all Territories; and I beg the Senator from North Dakota to remember that it is especially true of the Indian country, because the intelligent enterprising white people who have gathered there have been denied the poor privilege of even a Territorial form of government. For years they have been compelled to work out their destiny under the orders and regulations of the Interior Department. Even if the Interior Department were administered by an upright and a wise law-giver, this condition would be intolerable to men raised under the institutions of free and self-governing States. But, sir, the people there have not always had the benefit of even the judgment of the Secretary of the Interior himself, and much which has deeply concerned their vital interests has been the work of indifferent, and sometimes of incompetent, subordinates. I am not willing to continue 700,000 American citizens in that condition. Therefore if I can not give them separate statehood, which I believe they deserve, I will vote to give them joint statehood as the best that can be obtained.

Mr. BATE. Mr. President, I am one of those who believe that the Indian Territory should not be put into statehood with Oklahoma. I think they should be separate. Oklahoma would make a grand State, as has been shown by the manner in which it sprung into existence like magic. It has increased its population to six or seven hundred thousand people in a few years, a population composed of the best men and women from the mighty West, who have gone to that country. They are there in sufficient numbers and have the necessary resources to make a magnificent State. Oklahoma has an area as large as that of five New England States, exclusive of Maine. Within that area there are, as I have said, six or seven hundred thousand inhabitants. It is a splendid country, and if admitted itself as a State it will make a magnificent one, and I want to see it admitted.

The Indian Territory, Mr. President, I think, would be a drag upon Oklahoma. We ought not, in my opinion, to admit the Indian Territory to statehood immediately. I think for the present it ought to be kept in a Territorial condition, and be in charge of the Government of the United States. The Indians, who largely inhabit it, being our wards, we should retain the relation of guardian toward them. I say it is the duty of the Government to look to their interests and see that they are properly attended to, and to see that the laws which are enacted for that Territory shall be such as will save them from the curse of the liquor habit.

We have been struggling here to-day and we have passed some amendments to this bill under the inspiration of the Senator from New Hampshire [Mr. GALLINGER], whom I do not now see in his seat and who, I am sure, wanted to be heard on this amendment. I think that Senator has one or two amendments to offer for the purpose of protecting those Indians from the curse of alcohol. If once admitted as a State we can not, of course, longer protect the inhabitants of that Territory; but while they continue under a Territorial form of government the United States can step in and control or stop that traffic.

I think it is due the Indians that we should retain that Territory under the control of the United States, not only for that reason, but for the further fact that there are children and minors there who would be affected. What are you going to do about regulating the liquor business? You ought to calmly consider the situation and then act upon it; and I ask Republicans and Democrats here to act together on this question.

What is the history of the great parties in all their conventions in regard to statehood? Not a single national Democratic or Republican convention, as far back as you can go, has ever asked that the Indian Territory be made a State or be united with some other State. On the contrary, what have they done? They have referred in terms and by name to Oklahoma, New Mexico, and Arizona, but they have never once mentioned the Indian Territory. Here, then, Senators are running counter to the express wishes of our people in their national conventions.

Nobody expected the union of these two Territories to be made, Mr. President. There is a peculiar history connected with the Indian Territory as to statehood which I think should be observed. There are about 80,000 or 90,000 Indians there. So far as the white people are concerned, I want to see them properly taken care of, but I do not want to see it done at the

expense of the poor Indians. They own the land; it is yet theirs, and but for the Atoka agreement there would never have been any chance to take it away from them.

Mr. President, when we see the conditions there, when we see that the courts can not regulate them, when we see that the Government of the United States can stretch its long arm out there and protect the Indians, when we see that they are the owners of the land and that they own the house, shall we propose to step in and kick them out? That is the situation. There is a moral obligation involved in this matter. I say we have a right to erect a separate State of the Indian Territory, after a while, though not now. I shall vote for the amendment upon this ground.

I think, Mr. President, if every Senator will take to himself this moral view of it, or even if he takes a party view of it and sees that his party follows the right, the Indians will not be removed from the Federal control. I pray, Mr. President, that the Senate will take a just and proper view of this matter and will retain the Indian Territory in its present Territorial form.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from North Dakota [Mr. McCUMBER].

Mr. McCUMBER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BATE. I wish to have stated exactly what the amendment is.

The PRESIDENT pro tempore. What is the Senator's request?

Mr. BATE. I understand the amendment provides for the admission of Oklahoma by herself as a State?

The PRESIDENT pro tempore. That is correct.

The Secretary proceeded to call the roll.

Mr. MONEY (when Mr. MORGAN's name was called). The Senator from Alabama [Mr. MORGAN] was forced to leave the Chamber a moment ago, and told me he had a pair with the junior Senator from Illinois [Mr. HOPKINS].

The roll call was concluded.

Mr. BAILEY (after having voted in the affirmative). Mr. President, I voted "yea." Since voting I recall that the Senator from Arkansas [Mr. CLARKE], who is opposed to the amendment, was called out of the Chamber for a moment and requested me to pair with him. I agreed to do so, and, therefore, withdraw my vote.

Mr. HOPKINS (after having voted in the negative). I inquire if the senior Senator from Alabama [Mr. MORGAN] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. HOPKINS. I am paired with that Senator, and, therefore, withdraw my vote. If he were present, I should vote "nay."

The result was announced—yeas 32, nays 45, as follows:

YEAS—32.

Bacon	Daniel	Latimer	Newlands
Bard	Dubois	McCreary	Overman
Bate	Foster, La.	McCumber	Patterson
Berry	Gallinger	McEnery	Platt, N. Y.
Blackburn	Gibson	McLaurin	Simmons
Carmack	Gorman	Mallory	Stone
Cockrell	Hansbrough	Martin	Taliaferro
Culberson	Heyburn	Money	Teller

NAYS—45.

Alger	Depew	Gamble	Platt, Conn.
Allee	Dick	Hale	Proctor
Allison	Dietrich	Kean	Quarles
Ankeny	Dillingham	Kearns	Scott
Ball	Dolliver	Kittredge	Smoot
Beveridge	Dryden	Lodge	Spooner
Burnham	Elkins	Long	Stewart
Burrows	Fairbanks	McComas	Warren
Clapp	Foraker	Millard	Wetmore
Clark, Wyo.	Foster, Wash.	Nelson	
Clay	Frye	Penrose	
Cullom	Fulton	Perkins	

NOT VOTING—13.

Aldrich	Clarke, Ark.	Knox	Tillman
Bailey	Crane	Mitchell	
Burton	Hawley	Morgan	
Clark, Mont.	Hopkins	Pettus	

So Mr. McCUMBER's amendment was rejected.

Mr. GALLINGER. On page 7, section 4, line 8, after the word "question," I move to insert the words "in each of said Territories."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 7, section 4, line 8, after the word "question," it is proposed to insert "in each of said Territories;" so as to read:

SEC. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this act the convention

forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection at an election to be held at a time fixed in said ordinance, at which election the qualified voters for said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The returns of said election shall be made to the secretary of the Territory of Oklahoma, who, with the chief justice thereof and the chief justice or senior judge of Indian Territory, shall canvass the same; and if a majority of the legal votes cast on that question in each of said Territories shall be for the constitution, the governor of Oklahoma Territory and the judge senior in service of Indian Territory shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions and a copy of said constitution, articles, propositions, and ordinances.

Mr. GALLINGER. Mr. President, if this amendment should be adopted, it would simply give local option to the Territory of Oklahoma and the Indian Territory, as it has been given to the Territories of New Mexico and Arizona. In other words, that they would not become one State unless a majority vote should be cast in both of the Territories. It seems to me that that having been conceded in the case of New Mexico and Arizona, it ought to be conceded to these two Territories without question. I hope it will be adopted.

Mr. PLATT of Connecticut. I understand the cases are entirely different; that Oklahoma and the Indian Territory, so far as I have heard, desire to be admitted as one State.

Mr. GALLINGER. I have had a very large number of petitions to the contrary, and I have had letters and telegrams from the Territory saying they wish this privilege extended to them; that they want the privilege of voting on this question. I should judge from what I hear that a majority of the people in the Indian Territory very likely will vote for jointure, but, nevertheless, it seems to me they ought to be given the privilege of expressing their wish in the matter.

Mr. ELKINS. Let the amendment be again read.

Mr. CLAY. I did not catch the amendment when it was read. I should be glad to have it read again if it is short.

The PRESIDENT pro tempore. The amendment will again be stated.

The SECRETARY. After the word "question," in line 8, on page 7, it is proposed to insert the words "in each of said Territories."

Mr. BATE. Do I understand that that is the amendment offered by the Senator from New Hampshire?

The PRESIDENT pro tempore. It is the amendment submitted by the Senator from New Hampshire.

Mr. STEWART. Mr. President, I do not think there is a sufficient reason for putting the people to that expense and trouble. I have perfect confidence that the great mass of people would desire to come in as one State rather than to be kept out. The negative of the proposition would get very few votes, and this would entail an unnecessary expense. The general desire on the part of both Territories is to come in. A good many wish it could be separately. The only embarrassment I have about it is whether the Indian Territory is thoroughly prepared; whether Congress would be embarrassed in taking care of the Indians. But on investigating the whole thing I think Congress will still have jurisdiction of the Indians, and can take care of them. It has gone so far that I think the best thing we can do is to admit them as one State and admit them at once. It would be better for all concerned.

Mr. HALE. I move to lay the amendment on the table, and on that I call for the yeas and nays.

The yeas and nays were ordered; and the Secretary called the roll.

Mr. BACON. The junior Senator from Rhode Island [Mr. WETMORE] has been called from the Chamber by illness, and I have agreed to stand paired with him on this vote.

The result was announced—yeas 41, nays 31, as follows:

YEAS—41.

Allee	Depew	Hale	Platt, Conn.
Allison	Dick	Kean	Proctor
Ankeny	Dillingham	Kearns	Quarles
Ball	Dolliver	Kittredge	Scott
Beveridge	Dryden	Lodge	Smoot
Burnham	Elkins	Long	Spooner
Burrows	Fairbanks	McComas	Stewart
Clapp	Foster, Wash.	Millard	Warren
Clark, Wyo.	Frye	Nelson	
Clarke, Ark.	Fulton	Penrose	
Cullom	Gamble	Perkins	

NAYS—31.

Bailey	Cockrell	Latimer	Newlands
Bard	Culberson	McCreary	Overman
Bate	Dubois	McCumber	Patterson
Berry	Foster, La.	McEnery	Simmons
Blackburn	Gallinger	McLaurin	Stone
Carmack	Gibson	Mallory	Taliaferro
Clark, Mont.	Gorman	Martin	Teller
Clay	Heyburn	Money	

NOT VOTING—18.

Aldrich	Daniel	Hopkins	Platt, N. Y.
Alger	Dietrich	Knox	Tillman
Bacon	Foraker	Mitchell	Wetmore
Burton	Hansbrough	Morgan	
Crane	Hawley	Pettus	

So Mr. GALLINGER's amendment was laid on the table.

Mr. DOLLIVER. I offer the amendment I send to the desk.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Iowa offers an amendment, which will be stated.

The SECRETARY. On page 17, line 5, after the word "Musco-gee," insert: "One term at Tulsa."

Mr. BEVERIDGE. The committee accepts the amendment. The amendment was agreed to.

Mr. DOLLIVER. I offer a further amendment.

The SECRETARY. On page 17, line 19, after the word "January," insert the words "at Tulsa on the 1st day of April."

Mr. BAILEY. Mr. President, I hope the Senate is not going to forestall the right of those people to locate their own courts through their own Senators and Representatives. I have received twenty urgent applications from different places to locate a court here and one there, hoping thus in the bill itself to acquire an advantage of a rival town.

Before the present conditions are changed the State will be admitted to the Union. She will have her own Senators here. She will have her own Representatives in the other House. Those men, responsible to their people, can decide and ought to decide upon the location of the courts.

The Senator from Nevada [Mr. STEWART] well suggests to me that she will have her Senators and Representatives here before a single Federal judge can be appointed, because there will be in proper contemplation of the law no judge of the United States court in those districts until the State is admitted into the Union.

I do not know what are the merits between Tulsa and some rival town. I do know that I have been plied with frequent and somewhat urgent petitions from it and from many others; but I have said to them all alike, "This matter ought to be left until the Senators and the Representatives from the new State can come and settle it for themselves."

I beg the Senate to remember that at present the bill adopts the artificial, and, as I hope, the soon to disappear line of demarcation between the Indian Territory and Oklahoma Territory. Upon any proper division it is more than probable that the judicial districts will take a different direction, and yet under this bill we will have courts already established at towns which will be inaccessible or inconvenient to the people when a proper system is established.

Mr. DOLLIVER. I rise merely to call the attention of the Senator to the fact that practically all of the competing towns seem long since to have been nicely taken care of in the pending bill except the town of Tulsa.

Mr. BAILEY. There is the town of Chickasha. It is on the Rock Island Railroad, and, as I recall now, there is no court established by this bill on the Rock Island road. There is at present a session of the Territorial court held there. But there is no provision, as I recall, for any court in all the long line of territory through which the Rock Island Railroad runs.

Mr. LONG. If the Senator from Texas will yield, I will say that an amendment has been adopted locating a court at Enid, in the western district.

Mr. BAILEY. That makes it all the more objectionable to me, because a court at Enid will require the people in the southern part of that Territory to travel still farther in order to reach a Federal court. They will have to travel beyond the Red River to Enid, 150 miles, and it is unconscionable to send men—litigants, witnesses, and jurors—in a Territory as small as that a distance of 150 miles.

But this only illustrates that neither I nor any other Senator, even if we possessed a definite knowledge of the towns and railroads in the Indian Territory, would be prepared to locate the courts, for no man knows where the lines of the judicial districts will run when the Territories become a State.

If it has been arranged that my amiable friend, the Senator from Iowa, is going to take care of some of his constituents now residing there, I am going to interpose no further objection; but I have myself seen so many efforts of this kind that I believe it ought not to be tolerated by the Senate. But as other Senators are going to take care of their friends, I think I probably have as many friends at Chickasha as any other Senator has at any other place in the Territory, and I ask unanimous consent that a court may also be located at Chickasha.

Mr. BEVERIDGE. I should like to oblige the Senator from Texas. I am very glad to oblige any Senator about the location of the courts, when I can. I recognize the point the Senator makes that there are probably too many courts in the new State;

and yet when it comes to the distribution of them, they are distributed about as well as they could be distributed. There must be an end some time, and for that reason I am sorry to say that the committee can not accept the suggestion of the Senator from Texas.

Mr. BAILEY. It must end before it gets to me instead of after me, I presume. We will see about that.

Mr. BEVERIDGE. If the Senator had been in in time—

Mr. BAILEY. I was in in time two weeks ago when the Senator from Minnesota [Mr. NELSON] was the deputy in charge of the bill. I then sought to provide for Chickasha. There are South McAlester, Ardmore, and Chickasha, going east and west, and all three on the line of the road running north and south.

I have the same amiable weaknesses that everybody else has. So long as the public service is not interfered with, I like to help my old neighbors and my present friends, and I should like to have a session of the court located at Chickasha, and as the price of peace, I hope the Senator will agree to it.

Mr. BEVERIDGE. I will ask the Senator whether he really thinks there ought to be a term of the court at Chickasha?

Mr. BAILEY. I will say to the Senator in all earnestness, I do. The Senator will recall—

Mr. BEVERIDGE. I see no reason, if the Senator thinks so, why we should stop with the Senator. So let us include the Senator and Chickasha.

Mr. BAILEY. All right.

Mr. DOLLIVER. Mr. President, I am in hearty accord with that suggestion, but I should dislike to get my modest amendment involved in that proposition, because the supreme court by vote of the Senate has been located at the town for which I am speaking, and the amendment now pending is for an adjustment of the terms, so as not to interfere with the terms already established in other places.

I would ask my friend the Senator from Texas to permit the terms to be adjusted, and then he can get an amendment for their still further adjustment in respect to Chickasha.

Mr. STEWART. Mr. President, this is child's play. It may gratify somebody for the time being. It is the first time I ever knew of judicial districts being established in a State before it was admitted. Generally the practice has been to wait until it becomes a State.

It seems to me it is premature. It may gratify somebody, but it will not amount to anything. When it gets to be a State, the State will district it as it suits itself and establish its courts.

Mr. BEVERIDGE. I confess my fear is there will be more courts than there is business to do, and there will not be enough business to hold court for one session at each place. Nevertheless, we are in an agreeable mood now; so let us include Chickasha by all means.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Iowa [Mr. DOLLIVER].

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Iowa [Mr. DOLLIVER] will be stated.

The SECRETARY. On page 17, line 20, strike out the word "May" and insert the word "June;" so as to read "the first Monday in June."

The amendment was agreed to.

Mr. DOLLIVER. I suggest that if the amendment establishing a court at Chickasha is to be adopted it ought to be fitted into these terms in a more elaborate way than has been done by the Senator from Texas in his oral statement of his motion.

The PRESIDING OFFICER. The Chair has no right to put in an amendment on an oral statement.

Mr. BACON. I desire to say a word in regard to the proposed courts in the Indian Territory. If I recollect aright, there was a bill pending at the last session of Congress which disclosed a very great rivalry among a large number of communities in the Indian Territory, each of which was desirous to have a court located, in order that it might have the benefit of it if there was a State created. My recollection is that that bill was adversely recommended by the Judiciary Committee. I may be mistaken about that, but it certainly disclosed the fact that there were a dozen or more places in the Territory each of which desired to have a court. I do not think any of them ought to be established prior to the time when the State can determine for itself where they shall be located.

The PRESIDING OFFICER. Will the Senator from Texas put his amendment in proper shape? It is not in order as stated, except that it was accepted.

Mr. BAILEY. I was going to state it. On page 17, in line 6, after the word "Ardmore," insert "and one term at Chickasha."

Mr. BEVERIDGE. I accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. BEVERIDGE. That is accomplished, Mr. President.

Mr. LONG. I ask unanimous consent for the adoption of the amendment I send to the desk, and I call the attention of the Senator from Indiana to it.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 15, line 3, after the word "appraisers," insert:

Who shall be nonresidents of the county wherein the land is situated.

Mr. BEVERIDGE. That amendment is manifestly just and right. It is accepted.

The amendment was agreed to.

Mr. BAILEY. In order to conform to the amendment agreed to a moment ago, on line 19, page 17, after the word "January," I move to insert "and at Chickasha on the first Monday in March."

It reads:

The regular term of said courts shall be held at the places designated in this act at Muskogee on the first Monday in January.

After "January," I move to add "at Chickasha on the first Monday in March."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McLAURIN. I offer an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 2, line 3, after the word "unextinguished," strike out the remainder of the section, in the following words:

Or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

Mr. McLAURIN. To make the amendment understood, I will read the proviso.

Mr. BEVERIDGE. Before the Senator explains it, I ask that the words be read again. My attention was called away.

The Secretary again read the words proposed to be stricken out.

Mr. BEVERIDGE. Is it merely to strike out the words?

The PRESIDING OFFICER. That is the amendment.

Mr. McLAURIN. To make it understood, I will read the first part of the proviso in connection with the part I propose to strike out.

Mr. BEVERIDGE. I wish to call the attention of the Senator from Minnesota [Mr. NELSON] to this amendment.

Mr. McLAURIN. The proviso reads as follows:

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

Now, Mr. President, without the passage of this act the Territory of Oklahoma and Indian Territory, being under the jurisdiction of Congress, it is in the power of the Congress of the United States to make any law in reference to the Indians that it could make in reference to the white people or all the other inhabitants of those Territories. These Indians are made citizens of that State, they are made voters; they are permitted to participate in the government of the State. Section 2 reads:

That all male persons over the age of 21 years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State.

The bill proposes as to a part of the citizens of this State, who are permitted to participate in the government of the State, to hold them yet in a chrysalis condition. The act proposes to allow Congress to legislate in respect not only to the persons but to the property of these citizens of the State, who are as much entitled to participate in the government of the people of the State as are those of the Caucasian race.

I do not think there ought to be a provision in this measure which would enable Congress to pass laws for the police regulation of a part of the inhabitants of the proposed State and not apply the same legislation to the others; in other words, to admit the State provided that a portion of the inhabitants of that State, who are citizens participating in the government of the State shall remain under the jurisdiction of the United States as a Territory.

Mr. STEWART. I move to lay the amendment on the table.

The motion was agreed to.

Mr. SPOONER. Mr. President, I give notice that I shall

ask in the Senate for a separate vote on the amendment offered by the Senator from California [Mr. BARD].

Mr. STONE. I desire to offer an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. After section 12 insert as an additional section the following:

SEC. 13. That all restrictions upon the alienation of allotted lands in Oklahoma and the Indian Territory, except so far as such restrictions apply to the homestead of the allottees and to the full-blood Indians, shall cease upon the admission of such State into the Union. Any land selected as a homestead by an allottee from his or her allotted lands in said Territories while held by the allottee as such homestead shall be nontaxable for a period of twenty-one years from date of the admission of said State. All allotted lands in said Territories, other than homesteads, shall be taxable after the admission of said State in like manner as other property therein.

Mr. STEWART. I move to lay the amendment on the table.

The motion was agreed to.

Mr. BERRY. On page 6, at the end of line 12, I move to insert, after the word "schools:"

And provided further, That this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Arkansas. [Putting the question.] The yeas seem to have it.

Mr. BERRY. I shall have to call for the yeas and nays. I will state, however, before that is done, that the language of the bill is:

That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control, etc.

There are a good many of us on this side who think that that might be construed, inasmuch as it is open to all the children, to be a requirement that all these schools shall be open to any and all children. The amendment I propose simply says it shall not be construed to prevent the establishment of separate schools. I think they ought to have that right. It is a right exercised by every State, and will make it clear beyond question. There ought to be no question about it.

Mr. PLATT of Connecticut. I ask for the reading of the amendment.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 6, line 12, after the words "public schools," insert:

And provided further, That this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

Mr. PLATT of Connecticut. I think it is entirely unnecessary.

Mr. BERRY. It can do no harm, then, if it is unnecessary, and I trust the Senator will let it go in.

Mr. NELSON. I think there ought to be no objection to the amendment. I shall be glad to see it go in. It leaves it entirely optional with the State government whether they shall have separate colored schools or not.

Mr. PLATT of Connecticut. Does not the Senator think it is now optional?

Mr. NELSON. I think it is. But if it is, it can do no harm. I trust the amendment will be adopted.

Mr. BERRY. I ask the Chair to put the question again.

The PRESIDING OFFICER. The Chair will again state the question. The question is on agreeing to the amendment proposed by the Senator from Arkansas [Mr. BERRY].

The amendment was agreed to.

The PRESIDENT pro tempore. Are there further amendments? If not, the bill will be reported to the Senate.

Mr. HEYBURN. I desire to offer an amendment to come in on page 17, line 6. After the word "Ardmore," I move to insert the words "and one term at Durant." The people of that section of the Territory, this being a place of about 10,000, and from 75 to 100 miles from any other section, desire that this amendment shall be inserted in the bill, and I offer it at their request.

The PRESIDENT pro tempore. The amendment of the Senator from Idaho will be stated.

The SECRETARY. On page 17, line 6, after the word "Ardmore," insert the words "and one term at Durant."

Mr. BEVERIDGE. Mr. President, I trust we have now come to an end of the establishment of courts at various portions of the proposed new State. If this matter is to be continued there will hardly be a county seat of respectable size in the entire proposed new State that will not have, particularly and especially for the purposes of local booming, the establishment of a Federal court. There are, in my judgment, far too many Federal courts in this new State.

I have been opposed to all but two in each Territory, but the

exigencies of the situation seemed to require that the additional number should be added. Finally, when the Senator from Texas [Mr. BAILEY] suggested that an additional court should be had at Chickasha, and explained the reasons for it, I felt that perhaps in view of the fact we had already exceeded the limit of all wise legislation upon that subject we should not stop with the Senator from Texas asking for a court at Chickasha for that portion of the Indian Territory which surrounds it. But, Mr. President, I think it was universally understood in the Senate at that time that that was to be the end of Federal courts at the various towns in this new State. Certainly it ought to be. Otherwise we must go on until we will have a flood of Federal courts and a multitude of Federal buildings scattered all over the Commonwealth. It does not appeal, I think, to the sense of justice or the judgment of the Senate, or a proper distribution of the court machinery there, and I hope the amendment will not be adopted.

Mr. HEYBURN. Mr. President—

Mr. BEVERIDGE. I think the Senator has spoken once.

Mr. HEYBURN. I have not spoken. I merely explained the circumstances under which I offered the amendment. I have but a word to say, if I may do so.

The PRESIDENT pro tempore. Under the unanimous-consent agreement the Senator has no right to be heard a second time. ["Vote!" "Vote!"] The question is on agreeing to the amendment of the Senator from Idaho [Mr. HEYBURN].

The amendment was rejected.

The PRESIDENT pro tempore. There being no further amendments, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. Does any Senator desire to reserve a separate vote on any amendment?

Mr. SPOONER. I reserved for a separate vote in the Senate the amendment offered by the Senator from California [Mr. BARD], striking from the bill the Territory of Arizona and admitting New Mexico as a State.

Mr. FORAKER. I did not understand what the Senator from Wisconsin said.

Mr. SPOONER. I reserved for a separate vote the amendment of the Senator from California.

Mr. DUBOIS. In view of the statement made by the Senator from Wisconsin, I think it is in order, and, if so, I now desire to offer an amendment to the part of the bill proposed to be stricken out by the amendment of the Senator from California.

The PRESIDENT pro tempore. That is entirely in order.

Mr. DUBOIS. I offer an amendment to come in on page 25, after line 18.

The PRESIDENT pro tempore. The Senator from Idaho offers an amendment, which will be stated.

The SECRETARY. On page 25, after the word "prohibited," it is proposed to insert:

Congress reserves to itself the right to legislate on the subject of polygamy and polygamous cohabitation within said State; but the legislature of the State shall have the right to enact legislation in respect thereof which shall be effective unless and until Congress shall legislate in respect thereto.

Mr. DUBOIS. Mr. President, I desire to say—

Mr. PLATT of Connecticut. Mr. President, I do not understand parliamentary rules as well as a good many other Senators, but I wish to make an inquiry. This bill has been considered as in Committee of the Whole and has been amended. Now it comes to the Senate, and the question is, Will the Senate concur in the amendments made as in Committee of the Whole? Is not that the first question?

The PRESIDENT pro tempore. It is not, because the amendment of the Senator from California [Mr. BARD] was to strike out and insert, and there is still preserved the right on the part of any Senator to move an amendment to the part which is proposed to be stricken out. The question now is on the amendment proposed by the Senator from Idaho [Mr. DUBOIS]. [Putting the question.] The yeas have it, and the amendment is rejected.

Mr. DUBOIS. Mr. President, is not debate on this amendment allowed?

The PRESIDENT pro tempore. The Chair did not intend to cut off any debate.

Mr. DUBOIS. I had the floor, Mr. President.

The PRESIDENT pro tempore. The Chair will consider the question on the adoption of the amendment an open one.

Mr. DUBOIS. I had not yielded the floor, Mr. President, when the Senator from Connecticut [Mr. PLATT] took it.

Mr. PLATT of Connecticut. I beg the Senator's pardon. I did not understand he desired to speak in support of his amendment.

Mr. DUBOIS. Mr. President, I offer an amendment to the Arizona and New Mexico portion of the bill, because I fear this

evil in a joint State. I should not have much fear of it in the State of New Mexico, but I have offered the amendment including polygamy and polygamous cohabitation, and have done that designedly.

I desire Senators to remember now, as in the future, that the prohibition of polygamy amounts practically to nothing; that it is polygamous cohabitation which must be reached. During all the trials under the Edmunds Act, when hundreds and hundreds of Mormons were sent to prison for violating the laws of the land, there were only three or four sent to the penitentiary for the crime of polygamy. The convictions were for polygamous cohabitation—that is, for a man holding out to the world more than one woman as his wife. I hope the Senate will adopt this amendment, which reserves to Congress the right to legislate in this proposed State unless the new State itself legislates on the subject. I can see no reason why this amendment should not be adopted.

Mr. PLATT of Connecticut. Mr. President, may that amendment be stated? I desire to have the amendment which the Senator proposes stated, and then to have the clause read as it will stand if that amendment be adopted.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Idaho will be again stated.

The Secretary again read the amendment.

Mr. PLATT of Connecticut. I now understand how the clause will read if the amendment be adopted.

Mr. BERRY. I want to ask is that an amendment to the original bill or an amendment to the amendment proposed by the Senator from California [Mr. BARD]?

The PRESIDENT pro tempore. It is an amendment proposed to that portion of the original bill which the amendment of the Senator from California proposes to strike out.

Mr. BERRY. Then it is an amendment to the original bill.

The PRESIDENT pro tempore. An amendment to the original bill. The question is on the amendment. [Putting the question.] The "noes" have it; and the amendment is rejected.

Mr. DUBOIS. I call for the yeas and nays on the amendment, Mr. President.

The yeas and nays were not ordered.

The PRESIDENT pro tempore. Will the Senate concur in the amendments reported from the Committee of the Whole to the Senate, with the exception of the one on which a separate vote has been reserved?

The amendments not reserved were concurred in.

Mr. KEARNS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Utah will be stated.

The SECRETARY. In section 18, on page 22, at the end of line 11, it is proposed to insert the following:

Provided, That, the State of Utah consenting thereto, that portion of Arizona Territory lying north and west of the center of the Colorado River shall be annexed to and form a part of said State of Utah.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Utah.

Mr. KEARNS. Mr. President, the amendment to which I desire to call the attention of the Senate is for the purpose of annexing to the State of Utah that portion of Arizona called "the Arizona strip," lying north and west of the Grand River. There are several reasons why that strip should become a part of the State of Utah. One is that the few hundred inhabitants therein are isolated from the capital of their own Territory. Senators who have had the opportunity of visiting the Grand Canyon of the Colorado know how impossible it is to cross that Grand Canyon. The Grand Canyon at the place where it intersects the southern line of Utah and the northern line of Arizona is from 2,500 to 4,000 feet deep—a box canyon. Throughout the whole distance of that river there is only one ford or means of crossing. That makes it necessary for the inhabitants living on this strip to go to Los Angeles so as to reach the capital of Arizona or to pass around to Pueblo, Colo., to reach there. They have to travel a thousand miles to get to their own capital.

Mr. BEVERIDGE. I will ask the Senator how much of this territory there is and what is the character of it?

Mr. KEARNS. It embraces about 7,000 square miles.

Mr. BEVERIDGE. It does not include the Grand Canyon itself?

Mr. KEARNS. It does not.

Mr. BEVERIDGE. It leaves that for Arizona?

Mr. KEARNS. Yes. All the commercial interests of the strip belong to citizens of Utah. It is very limited. There are no producing mines and no very valuable taxable property there. It is very difficult for the Territory of Arizona to enforce its criminal laws there. In fact, it is unable to do so.

On the other hand, Arizona affords a refuge to criminals who steal cattle or stock or commit other depredations in Utah. They pass over into the strip which is called "the Arizona strip," and before we can get a requisition for their arrest from the governor of Arizona they pass down to California or into the State of Colorado, which makes the enforcement of the law extremely difficult.

For these reasons, Mr. President, and others which I might state but for the lateness of the hour, I trust the Senate will adopt the amendment.

Mr. BEVERIDGE. Mr. President, it seems, upon the statement which has been made by the Senator from Utah [Mr. KEARNS], that this is a very just amendment, since it is a measure which injures no one and deprives no one of any right, but, upon the contrary, is a measure purely in the interest of justice, so that the criminals from both the State of Utah and the Territory of Arizona may be apprehended, and this strip of land, which is of such a bad character, as described by the Senator, shall no longer be a refuge for lawbreakers. So I accept the amendment on behalf of the committee.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Utah.

Mr. BAILEY. Before that trade is consummated, I want the yeas and nays.

The PRESIDENT pro tempore. The Chair did not understand the Senator from Texas.

Mr. BAILEY. The Senator from Texas did not exactly intend the Chair to understand him, but having said it, I will repeat. Before that trade is consummated, I want the yeas and nays.

The PRESIDENT pro tempore. That is what the Chair wished to understand—whether the Senator demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BEVERIDGE. Mr. President, with reference to that amendment, I wish to say that it was proposed to the Committee on Territories. It was proposed and offered by the Senator from Utah [Mr. KEARNS] in the early stages of this discussion. The Senator from Texas [Mr. BAILEY] perhaps did not know that fact. The amendment has been printed and laid on the tables of Senators.

The Secretary proceeded to call the roll.

Mr. HOPKINS (when his name was called). I transfer the pair I had with the senior Senator from Alabama [Mr. MORGAN] to the senior Senator from New York [Mr. PLATT], and vote. I vote "yea."

Mr. McLAURIN (when Mr. MONEY's name was called). My colleague [Mr. MONEY] is paired with the senior Senator from Wyoming [Mr. WARREN].

The roll call was concluded.

Mr. BACON. I again announce my pair with the junior Senator from Rhode Island [Mr. WETMORE], who is detained from the Chamber by illness.

Mr. CLARK of Wyoming. My colleague [Mr. WARREN], who was called from the Chamber some time ago, wished me to announce his pair with the Senator from Mississippi [Mr. MONEY] if a roll call should be had.

Mr. GORMAN. I was requested by the senior Senator from Alabama [Mr. MORGAN] to announce that he is paired with the junior Senator from Illinois [Mr. HOPKINS] for the day. I desire to call the attention of that Senator to the fact that the Senator from Alabama is now absent.

Mr. HOPKINS. I will state to the Senator from Maryland that I transferred my pair with the Senator from Alabama [Mr. MORGAN] to the senior Senator from New York [Mr. PLATT], who had been here all afternoon, but left about the same time the Senator from Alabama did.

Mr. GORMAN. I will say to the Senator from Illinois that I understood from the Senator from Alabama, as we all did on this side, that it was a specific pair with the Senator from Illinois, and not to be transferred.

Mr. HOPKINS. I take the responsibility of doing what I have done.

Mr. GORMAN. I recognize the Senator's right to do so. The result was announced—yeas 38, nays 33, as follows:

YEAS—38.

Allee	Depew	Gamble	Penrose
Allison	Dick	Hale	Platt, Conn.
Ankeny	Dietrich	Hopkins	Proctor
Ball	Dillingham	Kearns	Quarles
Beveridge	Dolliver	Kittredge	Scott
Burnham	Dryden	Lodge	Smoot
Burrows	Fairbanks	Long	Spooner
Clapp	Foster, Wash.	Millard	Stewart
Clark, Wyo.	Frye	Nelson	
Cullom	Fulton		

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NAYS—33.

Alger	Clay	Hansbrough	Patterson
Bailey	Cockrell	Heyburn	Perkins
Bard	Daniel	McComas	Simmons
Bate	Dubois	McCreary	Stone
Berry	Foraker	McCumber	Taliaferro
Blackburn	Foster, La.	McEnery	Teller
Carmack	Gallinger	McLaurin	
Clark, Mont.	Gibson	Mallory	
Clarke, Ark.	Gorman	Martin	

NOT VOTING—19.

Aldrich	Elkins	Money	Platt, N. Y.
Bacon	Hawley	Morgan	Tillman
Burton	Knox	Newlands	Warren
Crane	Latimer	Overman	Wetmore
Culberson	Mitchell	Pettus	

So the amendment of Mr. KEARNS was agreed to.

The PRESIDENT pro tempore. The question before the Senate now is on the amendment offered by the Senator from California [Mr. BARD].

Mr. BEVERIDGE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PERKINS. Before the roll is called, I desire to state that when this bill was under consideration in Committee of the Whole, and after I had voted, I received a note from the Senator from Pennsylvania [Mr. KNOX] stating that he was opposed to the Bard amendment, and was ill at home, and desired me to pair with him upon that vote. This note was received after I had voted. Had I received the message prior to that time, Senatorial courtesy would have prompted me to pair with the Senator.

Having already voted upon the amendment when in Committee of the Whole, and it now being in the Senate, I can not with propriety pair with the Senator from Pennsylvania. Otherwise I should be glad to do so, had I received his note before committing myself by my vote.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I again announce my pair with the junior Senator from Rhode Island [Mr. WETMORE], who has been called away by illness. If he were present, he would vote "nay," and I should vote "yea."

Mr. McLAURIN (when Mr. MONEY's name was called). I wish to state that my colleague [Mr. MONEY] is paired with the Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. My colleague [Mr. WARREN] is unavoidably detained from the Chamber, and is paired with the Senator from Mississippi [Mr. MONEY].

The result was announced—yeas 38, nays 38, as follows:

YEAS—38.

Alger	Culberson	Heyburn	Patterson
Bailey	Daniel	Latimer	Penrose
Bard	Dubois	McCreary	Perkins
Bate	Elkins	McCumber	Simmons
Berry	Foraker	McEnery	Stewart
Blackburn	Foster, La.	McLaurin	Stone
Carmack	Gallinger	Mallory	Taliaferro
Clark, Mont.	Gibson	Martin	Teller
Clay	Gorman	Newlands	
Cockrell	Hansbrough	Overman	

NAYS—38.

Allee	Cullom	Fulton	Millard
Allison	Depew	Gamble	Nelson
Ankeny	Dick	Hale	Platt, Conn.
Ball	Dietrich	Hopkins	Proctor
Beveridge	Dillingham	Kearns	Quarles
Burnham	Dolliver	Kittredge	Scott
Burrows	Dryden	Lodge	Smoot
Clapp	Fairbanks	Long	Spooner
Clark, Wyo.	Foster, Wash.	McComas	
Clarke, Ark.	Frye		

NOT VOTING—14.

Aldrich	Hawley	Morgan	Warren
Bacon	Knox	Pettus	Wetmore
Burton	Mitchell	Platt, N. Y.	
Crane	Money	Tillman	

So the Senate refused to concur in the amendment made as in Committee of the Whole.

Mr. BACON. I move to strike out all of the bill, beginning in section 19 and extending to section 37.

Mr. President, I will state to the Senate that the amendment which I propose strikes out everything in the bill relating to New Mexico and Arizona, and if it should be adopted and the bill passed after the adoption of such an amendment it would result in the admission of Oklahoma and the Indian Territory as one State, and that would be the entire scope and effect of the bill.

I desire to say that I think the argument of Senators on the opposite side, who have most strenuously contended that New Mexico was unfit for statehood, if followed to its legitimate and

logical end, must result in the corresponding conclusion that the two together ought not to be admitted.

If it be said that Arizona is no more worthy of admission than is New Mexico, then the extension of the area and the doubling of the population do not meet the objection. If, on the other hand, it is said that New Mexico, by reason of its peculiar population, is unfit to be admitted to statehood, the argument can not be answered that it is a monstrous iniquity under such circumstances to tie Arizona to New Mexico and admit them as one State.

Mr. President, while I am presenting this view of it, I desire to call the attention of the Senate to the very earnest appeal made by the Senator from Indiana [Mr. BEVERIDGE], in charge of this bill, against a separation of the two Territories—Indian Territory and Oklahoma—upon the ground that it was the earnest wish of those two Territories to be consolidated in one State; and the Senator appealed to the Senate, not only earnestly, but passionately, not to disregard the express wish of these two Territories.

Mr. President, there is no Senator here, however earnest he may be in the advocacy of the proposition that one State be made of the two Territories of New Mexico and Arizona, who will say there is any evidence upon which the Senate could confidently proceed that it is the desire, either of the people of Arizona or of New Mexico, that they should be united in one State.

Therefore the passionate argument of the Senator from Indiana against a separation of Oklahoma and the Indian Territory into two States applies with equal force and logic to the contention that New Mexico and Arizona should not, against the expressed and avowed wish of the people of each of those Territories, be included in the same State.

Therefore, Mr. President, while some of us have voted for the creation of New Mexico as a separate State, as that has been decided against by the Senate, and that by a tie vote, by every consideration, it seems to me, the Senate should equally decide that it will not, at this time, admit either one of them.

Mr. PLATT of Connecticut. I wish to say a word. If I understand the bill as it is now and without further amendment, it admits Oklahoma and the Indian Territory as one State. It admits New Mexico and Arizona as one State, provided that each, Arizona and New Mexico, shall vote separately to have it so admitted. It seems to me that if the people of the Territories of New Mexico and Arizona should vote that they wish to come in as one State they ought to have that privilege.

Mr. BACON. May I ask the Senator from Connecticut a question before he yields the floor?

Mr. PLATT of Connecticut. Certainly.

Mr. BACON. If the Senator agrees with the Senators who have argued with so much earnestness that the people of New Mexico are unfit for statehood, would the Senator say that that difficulty and objection would be cured by uniting New Mexico with Arizona and bringing them in as one State?

Mr. PLATT of Connecticut. I should say that if we give these Territories separately the right to say whether they wish to come in at this time as one State, it is a good provision to make. The people of either Territory can vote that they do not wish to come in, and then that ends it.

Mr. CARMACK. Mr. President, it seems to me the arguments which have been put forward here against the admission of New Mexico as a State are not arguments against the admission of New Mexico, but they do constitute a conclusive argument against the joining of New Mexico and Arizona.

The Senator from Wisconsin [Mr. SPOONER] referred to the fact that the people of New Mexico use interpreters in their court proceedings, in their Territorial legislature, and in their conventions. That will be just as true if they are joined with the Territory of Arizona as it would be if that Territory was admitted as a State. The people of New Mexico are not necessarily incapable of self-government or unfit for self-government by reason of the fact that they are of a different race from ours, or of a different blood from ours, or even because they do not speak the same language we do. But that does tend very strongly to incapacitate them for governing another people who are of our race and blood and do speak our language.

If the people of New Mexico are not fit to exercise the right of self-government, then they are not fit even to vote upon the question whether or not they shall be admitted to statehood with the Territory of Arizona.

Mr. SPOONER. I desire to say simply a word. I did not refer to the use of interpreters in court. That often happens in the courts of the United States. It happens in my own State. It happens in all other States. I referred to the fact that the statutes had to be printed in two languages, and that an interpreter had to be used, as this report shows, to interpret

the charge of the court to the jury; that sometimes an interpreter had been admitted as a necessity to the jury room.

Mr. CARMACK. Will the Senator yield for a question?

Mr. SPOONER. Yes.

Mr. CARMACK. Would not that be true if New Mexico were admitted jointly with Arizona? Would not the same objection obtain? How would it obviate the difficulty to join the two Territories?

Mr. SPOONER. I simply rose to correct the Senator's statement.

Mr. HEYBURN. Mr. President, I have proceeded all along upon the theory that it was unfair to the people of the western section of this country to mortgage the future of so large an area by admitting it as one State. It is unfair from the standpoint of the people of that Territory. They could settle that by voting under the Foraker amendment. But it is unfair to the other sections of the country, and if it is true, as it has been urged, that the people of those two Territories are not equipped for statehood, then let them wait until they are equipped. My objection is based upon the element contained in this proposed legislation of a mortgage upon the future of those people. Suppose we concede at this period of the discussion that they are not equipped, that the grade of citizenship is not up to the standard, and that the development of the resources of the country is not up to the standard of statehood. If we have reached that point, and we seem to have reached it, then the logical conclusion is that those two geographical subdivisions of the United States should remain out of the Union until they are equipped for statehood.

Upon those grounds, and upon those grounds alone, at this stage of the consideration of the bill, I am bound to vote for the amendment as proposed at this time to leave these two Territories out of this measure.

Mr. PATTERSON. I should like to know whether it would be in order to offer an amendment to perfect the bill before the amendment which has been offered by the Senator from Georgia is voted upon?

The PRESIDENT pro tempore. To perfect that portion of the bill which the Senator from Georgia proposes to strike out?

Mr. PATTERSON. It perfects it, and also adds to the first part of the bill. I will send the amendment to the desk and ask that it be read.

The PRESIDENT pro tempore. It is entirely in order to move to amend that portion of the bill which the Senator from Georgia proposes to strike out.

Mr. PLATT of Connecticut. That portion of the amendment is undoubtedly in order.

The PRESIDENT pro tempore. That portion is in order.

Mr. LODGE. The other is out of order.

Mr. PLATT of Connecticut. But, as I understand, the amendment also refers to some other portion of the bill.

The PRESIDENT pro tempore. That part of the amendment will have to be offered as a separate amendment.

Mr. PATTERSON. Then I will offer the second part of the amendment as I have sent it to the desk, which amends the part I moved to have stricken out in line 16, page 23.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In line 16, page 23, before the word "citizens," strike out the word "male."

Mr. PATTERSON. Mr. President, it pains me that the Senator from Indiana [Mr. BEVERIDGE], who, I believe, is in sympathy with this movement, should be inclined to smile audibly at this early stage of the discussion. The amendment as a whole was intended to strike out from that part of the bill in line 9, on page 2, section 2, the word "male," and from line 16, page 23, the word "male." If the amendment shall be adopted, it simply enlarges the voting population upon the question of the election of the constitutional conventions, and then upon the adoption or rejection of the constitution that may be framed.

I wish the Senate to understand that the amendment does not carry equal suffrage beyond the question of the constitution itself. It permits women of full age in the proposed two new States to vote for members of the constitutional conventions, and then after the constitution is adopted it will permit them to vote upon its ratification or rejection. The amendment does not create woman suffrage in the new States. That is a matter which will be left distinctly to the constitutional convention itself. As I suggested before, it simply proposes to allow women, with men, to vote for members of the constitutional conventions, and then to vote upon the ratification or rejection of such instrument as the conventions may adopt.

Who will say, Mr. President, that such a privilege should not be given to the women of these now four Territories? It is the crucial time for the future of these four Territories in con-

nection with the proposed statehood. The constitutional conventions will have everything with which women are most deeply concerned to consider—the question of divorces, the question of the right of parents to children, the question of the ownership of property by wives, the question of the right of wives to the proceeds of their own labor, and the question of schools. Who, Mr. President, is more deeply interested in these different questions than are the women of these now four Territories? Whatever may be said of the bravery, the courage, the self-sacrificing devotion, and the patriotism of those who left behind them the civilization and the comforts of their eastern homes, as applicable to the men, may be emphasized fivefold as applicable to the women.

Mr. President, this is in the line of the progress of civilization. We already have four States which give full suffrage to women. We have seventeen States which allow the women to vote at all school elections and for all school officers. The State of Kansas permits the women of that State to vote in all municipal elections and for all city officials; and at least four States in the Union permit their women to vote upon matters that affect certain kinds of taxation and appropriations for public works.

If that has been the progress upon the line of broadening suffrage, and if the revolution is still going forward, I ask honorable Senators why Congress should not say to the people who live in these Territories that the women in the Territories as well as the men shall vote for members of the constitutional conventions, that their influence may be directly felt in the creation of the constitutions under which it is expected that the people of these States will live practically forever?

It seems to me, Mr. President, that this is not unreasonable. As I suggested, it does not impose or secure equal or woman suffrage in these proposed new States. It simply gives to the women of the States a voice in the preparation of the constitution under which all must live, and in the rejection or the adoption of the constitution. The constitutional conventions will have the duty devolved upon them of determining what the quality of suffrage in these four proposed States shall be thereafter.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Colorado [Mr. PATTERSON].

The amendment was rejected.

The PRESIDENT pro tempore. If there be no further amendments, shall the amendments be engrossed and the bill be read a third time?

Mr. GORMAN. I understand that we have not voted on the amendment of the Senator from Georgia [Mr. BACON].

Mr. CULLOM. That is the amendment pending.

The PRESIDENT pro tempore. The Chair begs pardon of the Senate. The Chair had forgotten that the pending amendment is that offered by the Senator from Georgia. The question is on agreeing to that amendment.

Mr. GORMAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. NEWLANDS. Mr. President, I wish to say a few words regarding the amendment. I understand the amendment to be to strike out all the portions of the bill relating to New Mexico and Arizona, leaving it a bill for the joint statehood of Oklahoma and the Indian Territory.

Now, Mr. President, I understand that the opposition to the separate statehood of New Mexico and Arizona is not based upon any desire to deny to the area of land covered by these two Territories and the population that will hereafter live there the right of a fair and proper representation in the Union of the United States. I understand the sole objection to the separate statehood of Arizona and New Mexico is that neither of those Territories has at present the population that entitles it to statehood, and that neither of them has the present resources so fully developed, so fully explored, so definitely ascertained as to give, as the Senator from Indiana has said, collaterals to the Union for future development—for a future increase in population and in wealth.

Now, then, if that be so, if that argument be made in all sincerity, surely the appeal should be listened to which suggests that the Government of the United States wait until the needed demonstration is made; that we should not prematurely force so large an area of land into one State; that we should not prematurely force the creation of so large a State upon the assumption that neither the existing population nor the existing wealth are sufficient to maintain statehood, and that there is no adequate assurance of sufficient population and wealth in the future.

I think there is some weight in the suggestion as to popula-

tion; that whilst heretofore Territories having only 60,000 population have been admitted as States in the Union, and later on the test of population has been requiring a population equal to that required for Congressional representation—125,000 or 150,000—there is something in the statement that the 60,000 of years ago or the 150,000 of a later period bore a greater proportion to the population then existing in this country than the population existing in New Mexico or the population existing in Arizona, or the population existing in both, perhaps, bears to the present total population of the United States.

But if they have not got the requisite population to maintain what this Congress may regard as the present standard for statehood, if they have not the existing wealth that suits the views of Congress regarding the existing standard of statehood, it seems to me that the only fair and just thing to do is to allow each one of these Territories to remain in a Territorial condition until it has reached to or approximates the standard fixed by Congress, and not to force them into a Union to which they are repugnant, and not to force them to the unnecessary expense to which the procedure pointed out by this bill will subject them, in holding a constitutional convention and election.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Georgia [Mr. BACON]. On this question the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. McLAURIN (when Mr. MONEY's name was called). My colleague [Mr. MONEY] is paired with the senior Senator from Wyoming [Mr. WARREN]. If he were present, he would vote "yea."

The roll call having been concluded, the result was announced—yeas 39, nays 36, as follows:

YEAS—39.

Alger	Cockrell	Hansbrough	Newlands
Bacon	Culberson	Heyburn	Overman
Bard	Daniel	Latimer	Patterson
Bate	Dubois	McCreary	Perkins
Berry	Elkins	McCumber	Slimmons
Blackburn	Foraker	McEnery	Stewart
Burrows	Foster, La.	McLaurin	Stone
Carmack	Gallinger	Mallory	Tallaferro
Clark, Mont.	Gibson	Martin	Teller
Clay	Gorman	Morgan	

NAYS—36.

Allee	Depew	Fulton	McComas
Allison	Dick	Gayburn	Millard
Ankeny	Dietrich	Hale	Nelson
Ball	Dillingham	Hopkins	Penrose
Beveridge	Dolliver	Kean	Platt, Conn.
Burnham	Dryden	Kearns	Proctor
Clapp	Fairbanks	Kittredge	Quarles
Clark, Wyo.	Foster, Wash.	Lodge	Smoot
Cullom	Frye	Long	Spooner

NOT VOTING—15.

Aldrich	Crane	Money	Tillman
Bailey	Hawley	Pettus	Warren
Burton	Knox	Platt, N. Y.	Wetmore
Clarke, Ark.	Mitchell	Scott	

So Mr. BACON's amendment was agreed to.

Mr. BACON. Mr. President, am I recorded as voting on the last vote?

The PRESIDENT pro tempore. The Chair is informed that the Senator is recorded in the affirmative.

Mr. BACON. I voted inadvertently. I am paired with the junior Senator from Rhode Island [Mr. WETMORE], and I therefore ask leave to withdraw my vote.

The PRESIDENT pro tempore. Is there objection to the Senator from Georgia withdrawing his vote?

Mr. BACON. I voted inadvertently, without thinking for a moment of my pair.

The PRESIDENT pro tempore. The Chair hears no objection, and the vote of the Senator from Georgia is withdrawn.

Mr. BARD. Mr. President, I propose an amendment similar to the one I have heretofore offered relative to the admission of New Mexico, the principal change being the striking out of lines 3, 4, and 5, on page 6 of that amendment.

Mr. NELSON. That is practically the same amendment that we have already voted upon. I make the point of order that the amendment is not in order.

Mr. PLATT of Connecticut. Mr. President, I should like to be advised more particularly in what respect the amendment which has just been offered by the Senator from California [Mr. BARD] differs from the amendment which was adopted as in Committee of the Whole, in which the Senate refused to concur.

Mr. BARD. Mr. President—

Mr. MALLORY. Mr. President, we should like to hear what is the proposed amendment. I have not been able to hear it, and do not know what it is about.

Mr. PLATT of Connecticut. I suppose the amendment should be read.

The PRESIDENT pro tempore. The amendment seems to be precisely the same as that which has already been nonconcurrent in by the Senate, with the exception, perhaps, of two or three lines.

Mr. BARD. It is, with the exception of striking out the words on the sixth page in lines 3, 4, and 5, as follows:

That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

Mr. PLATT of Connecticut. I submit, Mr. President, that that does not make the amendment in order, and that it is merely a substitute, so to speak.

Mr. BARD. Mr. President, the amendment which I offered before was offered as in Committee of the Whole, and I think it makes a difference, the bill now being in the Senate.

Mr. LODGE. But we took a vote on that amendment in the Senate.

The PRESIDENT pro tempore. There was a vote in the Senate on the question of concurring in that amendment, which had been favorably reported from the Committee of the Whole to the Senate, and then in the Senate there was a refusal to concur in the amendment. Now, practically, this is precisely the same amendment, with the exception of two or three lines.

Mr. ELKINS. It is very important, and is another amendment altogether.

Mr. FORAKER. Mr. President, I know nothing about this amendment, except only as it has just now been explained. I did not know the Senator from California intended to offer it, but, as I understand, as the amendment has been explained, it is an amendment that does differ from the one upon which we voted; and it does differ, it seems to me, as to a very material matter—if it was proper to have that matter in the bill at all—relating to the question of suffrage, striking it from the covenant which we require the States to make. I should like a ruling on it.

Mr. NELSON. I desire to say, in reply to the Senator from Ohio [Mr. FORAKER], that the Senator from Texas [Mr. BAILEY] the other day argued that those words were merely surplusage; that it was a matter contained in the fifteenth amendment. It is practically the same thing we have voted upon, and therefore it is not in order.

Mr. FORAKER. It may be that it is merely surplusage. I think there is a good deal in that proposition. The Senate, however, did not accept that view of it. The Senate kept it in the bill after voting on it. It seems to me that the striking out of the words suggested by the Senator from California makes it a different amendment.

Mr. GORMAN. Mr. President, I think that the rule is perfectly clear. This amendment was offered when the Senate was acting as in Committee of the Whole, voted upon, and adopted. It was reserved for a separate vote when the bill was reported to the Senate, and by a tie vote it was lost. Now the distinguished Senator from California [Mr. BARD] has changed his amendment, and under the rule, no matter how slight the change may be, that change having been made, it is unquestionably, and it has always been so held, that a Senator has the right to have a vote in the Senate upon such a proposition. That right is so sacred to every Senator and to the Senate itself that I trust there will not be the slightest hesitation on the part of the Senate in performing its duty. I am sure I am perfectly accurate when I say that such has been the universal rule of the Senate.

The PRESIDENT pro tempore. The Senator from California must satisfy the Chair that he has changed the amendment. The Chair does not see from the reading of it and from merely looking at it that there are changes. If the Senator from California will state what the changes are which will make the amendment in order, the Chair will then rule.

Mr. BARD. Mr. President, I have already stated—

The PRESIDENT pro tempore. The Chair could not hear the Senator.

Mr. BARD. I have already stated and explained the alteration referred to, which is the striking out of three lines of the 5th clause, on page 6, of the amendment I offered—lines 2, 3, 4, and 5, which read as follows:

That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

Those are the words I propose to strike out.

The PRESIDENT pro tempore. What other change has the Senator made?

Mr. BARD. None other.

Mr. SPOONER. I should like to inquire to what section of

the bill the amendment proposed by the Senator from California applies?

The PRESIDENT pro tempore. Commencing with section 19 and including the remainder of the bill.

Mr. BEVERIDGE. It is to strike out.

The PRESIDENT pro tempore. The Chair will rule the amendment is in order.

Mr. BLACKBURN. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary called the name of Mr. ALDEICH.

Mr. MALLORY. Mr. President, a great many of us over here have not any idea what this amendment is, and we should like to have it read at the desk.

The PRESIDENT pro tempore. The yeas and nays have been ordered, and the first name on the roll has been called. The Senator is too late.

The Secretary resumed the call of the roll.

Mr. BACON (when his name was called). I again announce my pair with the junior Senator from Rhode Island [Mr. WETMORE].

The roll call was concluded.

Mr. BEVERIDGE. Mr. President—

Mr. COCKRELL. Let the vote be announced.

Mr. BEVERIDGE. I desire to change my vote. I should like my name to be again called.

The Secretary called the name of Mr. BEVERIDGE.

Mr. BEVERIDGE. I change my vote from "nay" to "yea."

The result was announced—yeas 40, nays 37, as follows:

YEAS—40.

Alger	Cockrell	Hansbrough	Newlands
Bailey	Culberson	Heyburn	Overman
Bard	Daniel	Latimer	Patterson
Bate	Dubois	McCreary	Penrose
Beveridge	Elkins	McCumber	Perkins
Berry	Foraker	McEnery	Simmons
Blackburn	Foster, La.	McLaurin	Stewart
Carmack	Gallinger	Mallory	Stone
Clark, Mont.	Gibson	Martin	Taliaferro
Clay	Gorman	Morgan	Teller

NAYS—37.

Allee	Depew	Gamble	Nelson
Allison	Dick	Hale	Platt, Conn.
Ankeny	Dietrich	Hopkins	Proctor
Ball	Dillingham	Kean	Quarles
Burnham	Dolliver	Kearns	Scott
Burrows	Dryden	Kittredge	Smoot
Clapp	Fairbanks	Lodge	Spooner
Clark, Wyo.	Foster, Wash.	Long	
Clarke, Ark.	Frye	McComas	
Cullom	Fulton	Millard	

NOT VOTING—13.

Aldrich	Hawley	Pettus	Wetmore
Bacon	Knox	Platt, N. Y.	
Burton	Mitchell	Tillman	
Crane	Money	Warren	

So the amendment of Mr. BARD was agreed to.

Mr. BEVERIDGE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORMAN. I move to lay that motion on the table.

Mr. FORAKER. I rise to a parliamentary inquiry. Has a Senator the right to change his vote on the roll call unless he states he has voted under a misapprehension?

The PRESIDENT pro tempore. He has a right to change his vote at any time before the result is announced.

Mr. FORAKER. I merely make the inquiry.

Mr. GORMAN. I move to lay the motion of the Senator from Indiana on the table.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. BEVERIDGE] moves to reconsider the vote by which the amendment of the Senator from California [Mr. BARD] was agreed to.

Mr. GORMAN. I move to lay that motion on the table.

Mr. SPOONER. The Senator from Indiana has the floor.

Mr. BEVERIDGE. I have not yielded the floor, Mr. President.

Mr. GORMAN. I beg pardon. I did not know that. Then I withdraw my motion, of course.

Mr. BEVERIDGE. Mr. President, I had not intended to say anything more—

Mr. ELKINS. I do not think debate is in order.

Mr. BEVERIDGE. Yes; it is.

The PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. BEVERIDGE. Mr. President, when the vote was originally called for upon the amendment of the Senator from California I had intended to address the Senate under the ten-minute rule. As chairman of the committee, I thought that an appropriate thing to do; but at the moment the vote was

called for I had been summoned into the Marble Room and was not able to return until I heard the ringing of the bell which announced the beginning of the vote. It was said in the beginning of this matter that no one would question the propriety of the committee, or some Senator in its behalf, closing the debate under the ten-minute rule in reply to the Senator from California.

Mr. President, there has been a long and interesting session, but I think no incident of it, perhaps, was more interesting than the fact that the Senator from California should offer this amendment. When he did offer it, Mr. President, much to my surprise, I sent to the document room for the interesting speech which the Senator from California, then in accord with his colleagues in this Chamber, made two years ago in opposition to the admission of both New Mexico and Arizona. If time permitted I should like to read that speech and confront the Senator from California now with what he then said. At that time he was against the admission of both of these Territories. At that time he said that neither had sufficient population. At that time he pointed out the appalling figures with respect to illiteracy. At that time he showed that there were none of the elements of statehood in either of them taken separately. Two years have passed. That speech was made after careful preparation. There has been no change in those Territories. Why has there been a change in the Senator from California?

Mr. FORAKER. Mr. President—

Mr. BEVERIDGE. The Senator from California—

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. FORAKER. I will not interrupt the Senator. I merely would like to know whether there has not been a change also in the Senator from Indiana?

Mr. BEVERIDGE. I hope there has, and for the better. So far as concerns a change in the Senator from Indiana, I never announced myself as against the proposition which seems to commend itself even to the judgment of the Senator from Ohio, if he were permitted to vote his judgment, for the union of these two Territories, if a majority in each of them, voting separately, said it was the desire of the two Territories to be joined.

We have heard an eloquent speech from the Senator from Ohio [Mr. FORAKER]. We have heard eloquent speeches from other Senators upon this side of the Chamber—

Mr. FORAKER. The Senator will allow me to interrupt him for a minute?

Mr. BEVERIDGE. Certainly.

Mr. FORAKER. I stated in the speech to which the Senator referred that I should dislike exceedingly to see the two Territories joined even if they should vote in favor of such a joining. I was opposed to it as unwise and impolitic, even in that event.

Mr. BEVERIDGE. Ah, it comes back to the old proposition that not even the people of the Territories are themselves to be permitted to say what they would like their destiny to be. Gentlemen are not willing for this question to go to the ballot box. They are not willing for the people themselves to say at the ballot box what they want, even when voting separately.

The Senator from Michigan [Mr. ALGER] yesterday addressed me, and I asked him the question, "Are you willing to vote to have these Territories come in as they vote separately?" He answered that he was. I asked him if that was his position. He answered it was; and I contrast what he said yesterday with his votes to-day.

Mr. President, it is a serious business in which we are dealing. I have never yet been able to see why it was that Senators were not willing to take the voice of the people. I have never been able to see why it was that they were willing to insist that gentlemen who want to fill offices, State and national, in those two Territories, should represent the people's wishes rather than the people themselves. I call the attention of Senators on both sides of the Chamber to what you are voting for in this matter, if you vote to keep out those two Territories. You are voting to prevent the people themselves from saying whether they shall be joined again as they were once joined.

But not content with that, not content with striking out the whole matter, which was the original proposition of the Senator from California, not content with adopting the suggestion of the Senator from Ohio, the Senator from California now proposes to go back on his record of two years ago and negative the words that he then so carefully prepared by agreement with his colleagues upon the majority of the committee, and to bring in New Mexico alone.

Mr. President, there is no use detaining the Senate upon the question of New Mexico's present incapacity for statehood by itself. One hundred and twenty thousand Mexicans, most of

them Spanish speaking—excellent people, no doubt—out of a population which at most does not number 200,000. And how long a time has it taken that population to accumulate there? Fifty-six years? No; it has been in the Union fifty-six years, but it has been settled since the sixteenth century.

Mr. President, why is it that it has not become more densely populated, and with Americans, even since it was taken into the Union? It is on account of an absence of those elements which sustain human life—water, soil, etc. During the same period the great tide of American immigration has swept over our Northwest to the Pacific Ocean; it has swept over our Middle West to the Golden Gate. Everywhere the hosts of immigration have gone, and we have seen a continent conquered peaceably by the settler, the pioneer, the smoke arising from whose cabin was his pillar of cloud by day.

Mr. President, that column of peaceful invasion did not strike New Mexico, it did not strike Arizona, simply because there was not enough water there.

The PRESIDENT pro tempore rapped with his gavel.

Mr. BEVERIDGE. It was not on account of—

The PRESIDENT pro tempore. The time of the Senator from Indiana has expired.

Mr. FORAKER. I move to lay on the table the motion to reconsider.

Mr. ALLISON. I rise to a question of order. What would be the effect of the motion of the Senator from Ohio if it prevailed?

The PRESIDENT pro tempore. If the motion to reconsider is laid on the table it is a final disposition of the vote.

Mr. ALLISON. A final disposition?

The PRESIDENT pro tempore. A final disposition of the vote if the motion to lay on the table prevails. The question is on agreeing to the motion to lay on the table.

Mr. BEVERIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I again announce my pair with the Senator from Rhode Island [Mr. WETMORE].

The roll call was concluded.

Mr. BEVERIDGE. I ask for a call of the Senate.

Mr. COCKRELL, Mr. GORMAN, and several others. You can not do that.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). No.

The result was announced—yeas 39, nays 38, as follows:

YEAS—39.

Alger	Culberson	Heyburn	Overman
Bailey	Daniel	Latimer	Patterson
Bard	Dubois	McCreary	Penrose
Bate	Elkins	McCumber	Perkins
Berry	Foraker	McNary	Simmons
Blackburn	Foster, La.	McLaurin	Stewart
Carmack	Gallinger	Mallory	Stone
Clark, Mont.	Gibson	Martin	Tallaferro
Clay	Gorman	Morgan	Teller
Cockrell	Hansbrough	Newlands	

NAYS—38.

Allee	Cullom	Fulton	Millard
Allison	Depew	Gamble	Nelson
Ankeny	Dick	Hale	Platt, Conn.
Ball	Dietrich	Hopkins	Proctor
Beveridge	Dillingham	Kean	Quarles
Burnham	Dolliver	Kearns	Scott
Burrows	Dryden	Kittredge	Smoot
Clapp	Fairbanks	Lodge	Spooner
Clark, Wyo.	Foster, Wash.	Long	
Clarke, Ark.	Frye	McComas	

NOT VOTING—13.

Aldrich	Hawley	Pettus	Wetmore
Bacon	Knox	Platt, N. Y.	
Burton	Mitchell	Tillman	
Crane	Money	Warren	

So the motion to lay the motion to reconsider on the table was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States."

Mr. FORAKER. I move that the Senate adjourn.

The motion was agreed to; and (at 8 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 8, 1905, at 12 o'clock meridian.